

Working with Children (Criminal Record Checking) Amendment Bill 2022

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Western Australia

LEGISLATIVE ASSEMBLY

**Working with Children (Criminal Record
Checking) Amendment Bill 2022**

A Bill for

**An Act to amend the *Working with Children (Criminal Record
Checking) Act 2004* and to make consequential amendments to
various Acts.**

The Parliament of Western Australia enacts as follows:

1

Part 1 — Preliminary

2

1. Short title

3

This is the *Working with Children (Criminal Record Checking) Amendment Act 2022*.

4

5

2. Commencement

6

This Act comes into operation as follows —

7

(a) Part 1 — on the day on which this Act receives the Royal Assent;

8

9

(b) the rest of the Act — on a day fixed by proclamation.

Part 2 — Working with Children (Criminal Record Checking) Act 2004 amended

3. Act amended

This Part amends the *Working with Children (Criminal Record Checking) Act 2004*.

4. Section 1 amended

In section 1 delete “(Criminal Record Checking)” and insert:

(Screening)

5. Section 4 amended

(1) In section 4 insert in alphabetical order:

authorised officer means an officer designated under section 34K for the purposes of this Act or for the purposes of the provision in which the term is used;

conduct review authority means a person or body, or a person or body of a class, prescribed by the regulations for the purposes of this definition;

conduct review finding or outcome means —

(a) a finding of a kind prescribed by the regulations; or

(b) an outcome of a kind prescribed by the regulations;

corresponding authority means a person or body in another jurisdiction that performs functions in the operation or administration of a corresponding law that substantially correspond to the functions of the CEO under this Act;

s. 5

- 1 ***criminal records agency*** means —
- 2 (a) the Commissioner; or
- 3 (b) the Commissioner of the Australian Federal
- 4 Police; or
- 5 (c) the Commissioner (however designated) of the
- 6 police force of another jurisdiction; or
- 7 (d) a person or body that is —
- 8 (i) established under a law of another State,
- 9 a Territory or the Commonwealth; and
- 10 (ii) prescribed by the regulations for the
- 11 purposes of this definition;
- 12 ***external government agency*** means —
- 13 (a) a government department established,
- 14 constituted or continued under a law of another
- 15 jurisdiction; or
- 16 (b) a body (whether incorporated or not), or the
- 17 holder of an office, post or position, that —
- 18 (i) is established, constituted or continued
- 19 for a public purpose under a law of
- 20 another jurisdiction; and
- 21 (ii) under the authority of a law of another
- 22 jurisdiction, performs a statutory
- 23 function on behalf of the government of
- 24 that jurisdiction;
- 25 ***government agency*** means —
- 26 (a) a department of the Public Service; or
- 27 (b) a body (whether incorporated or not), or the
- 28 holder of an office, post or position, that —
- 29 (i) is established, constituted or continued
- 30 for a public purpose under a written
- 31 law; and

1 (ii) under the authority of a written law,
2 performs a statutory function on behalf
3 of this State;

4 or

5 (c) an external government agency;

6 **outcome** includes —

7 (a) the suspension, cancellation or termination of a
8 licence, registration, authority or other form of
9 authorisation; and

10 (b) the making of a determination or decision, or
11 the issuing of a notice, order or other
12 instrument, that prohibits, restricts, regulates or
13 controls the conduct of a particular activity, or
14 the performance of particular work, by a
15 person;

16 **public authority** means —

17 (a) a department of the Public Service; or

18 (b) a body (whether incorporated or not), or the
19 holder of an office, post or position, that —

20 (i) is established, constituted or continued
21 for a public purpose under a written
22 law; and

23 (ii) under the authority of a written law,
24 performs a statutory function on behalf
25 of this State;

26 or

27 (c) an entity established by or under the *Health*
28 *Practitioner Regulation National Law (Western*
29 *Australia)*; or

30 (d) any other person or body, or person or body of
31 a class, prescribed by the regulations for the
32 purposes of this definition;

s. 5

- 1 **relevant conduct**, in relation to a conduct review
2 finding or outcome, means the conduct that gave rise to
3 the finding or outcome;
- 4 **WWC purpose** —
- 5 (a) means a purpose that is for, or connected with,
6 the operation or administration of, or
7 compliance with, this Act; and
- 8 (b) includes any of the following purposes —
- 9 (i) verifying the identity of a person who is,
10 or who has at any time been, an
11 applicant for an assessment notice under
12 this Act;
- 13 (ii) considering and deciding an application
14 for an assessment notice under this Act;
- 15 (iii) making a decision under section 12
16 because of the operation of
17 section 17(3)(d) or 17B(2)(b);
- 18 (iv) considering and deciding an application
19 for a negative notice to be cancelled;
- 20 (v) acting under section 20;
- 21 (vi) acting after the CEO has been given a
22 notice that the CEO must treat under
23 section 32(1) as an application for an
24 assessment notice;
- 25 (vii) ongoing monitoring of information
26 about a person’s criminal record while
27 the CEO is proceeding as described in
28 subparagraph (ii), (iii), (iv), (v) or (vi) in
29 relation to the person;
- 30 (viii) ongoing monitoring of information
31 about a person’s criminal record after an
32 interim negative notice has been issued
33 to the person;

- 1 (ix) ongoing monitoring of information
2 about a person’s criminal record while
3 the person has a current assessment
4 notice for the purpose of determining
5 whether the person should continue to
6 hold the assessment notice;
- 7 (x) taking any action in connection with a
8 matter that is the subject of proceedings
9 on an application under section 26.
10
- 11 (2) In section 4 in the definition of *another jurisdiction* delete
12 “Western Australia” and insert:
13
14 this State
15
- 16 (3) In section 4 in the definition of *Class 3 offence* after “an
17 offence” insert:
18
19 (including an offence under a law of another jurisdiction)
20
- 21 (4) In section 4 in the definition of *criminal record*:
22 (a) in paragraph (a) delete “of an offence, in Western
23 Australia” and insert:
24
25 for an offence in this State
26
- 27 (b) in paragraph (b) delete “offence, in Western Australia”
28 and insert:
29
30 offence in this State
31

s. 6

- 1 (5) In section 4 in the definition of *interim negative notice* delete
2 “section 13;” and insert:
3
4 section 13AA(2) or (3);
5
- 6 (6) In section 4 in the definition of *work* delete “course.” and insert:
7
8 course;
9
- 10 **6. Section 6 amended**
- 11 (1) In section 6(1) delete “subsection (3),” and insert:
12
13 this section,
14
- 15 (2) Delete section 6(3) and (4) and insert:
16
- 17 (3) Subsection (1) does not apply to work that is carried
18 out on a voluntary basis by a child unless the work is
19 carried out in circumstances, or by a child of a class of
20 children, prescribed by the regulations.
- 21 (4) Subsection (1) does not apply to work that is carried
22 out in circumstances, or by a person of a class of
23 persons, prescribed by the regulations.
- 24 (5) Regulations made for the purposes of subsection (3)
25 or (4) may, without limitation, prescribe a class of
26 children or a class of persons (as the case requires) by
27 reference to criminal record checks or other forms of
28 screening (however described) made under another Act
29 prescribed by the regulations.
30

1 Note: The heading to amended section 6 is to read:

2 **Child-related work**

3 **7. Section 7 replaced**

4 Delete section 7 and insert:

5

6 **7. Class 1 offence and Class 2 offence**

7 (1) A *Class 1 offence* is —

- 8 (a) an offence against a provision listed in
9 Schedule 1 (if the offence complies with any
10 condition specified in that Schedule or
11 prescribed by the regulations); or
- 12 (b) an offence under a law of this State or another
13 jurisdiction prescribed by the regulations to be
14 a Class 1 offence; or
- 15 (c) an offence under a law of another jurisdiction
16 the elements of which, if they had occurred in
17 this State, would have constituted an offence of
18 a kind referred to in this subsection; or
- 19 (d) an offence committed, or alleged to have been
20 committed, before 1 January 2006 that is an
21 offence of a kind referred to in this subsection;
22 or
- 23 (e) an offence of attempting, or of conspiracy or
24 incitement, to commit an offence of a kind
25 referred to in paragraphs (a) to (d).

26 (2) A *Class 2 offence* is —

- 27 (a) an offence against a provision listed in
28 Schedule 2 (if the offence complies with any
29 condition specified in that Schedule or
30 prescribed by the regulations); or

s. 8

- 1 (b) an offence under a law of this State or another
2 jurisdiction prescribed by the regulations to be
3 a Class 2 offence; or
- 4 (c) an offence under a law of another jurisdiction
5 the elements of which, if they had occurred in
6 this State, would have constituted an offence of
7 a kind referred to in this subsection; or
- 8 (d) an offence committed, or alleged to have been
9 committed, before 1 January 2006 that is an
10 offence of a kind referred to in this subsection;
11 or
- 12 (e) an offence of attempting, or of conspiracy or
13 incitement, to commit an offence of a kind
14 referred to in paragraphs (a) to (d).
- 15 (3) For the purposes of Schedules 1 and 2, an offence falls
16 within the ambit of this subsection if —
- 17 (a) the victim of the offence is a child who has
18 reached 14 years of age; and
- 19 (b) the age difference between the victim and the
20 offender does not exceed 5 years.
21

22 **8. Section 8 amended**

23 In section 8(3) delete “he or she” and insert:

24

25 the person

26

27 Note: The heading to amended section 8 is to read:

28

Conviction in relation to offence

1 **9. Section 9A amended**

2 In section 9A(2):

3 (a) delete paragraph (a) and insert:

4

5 (a) section 9(3)(b) does not apply and the approved
6 form may include provision for information
7 about the student’s education provider or the
8 person who employs, or proposes to employ,
9 the student in child-related employment; and

10 (aa) section 11(3A)(a) applies as if —

11 (i) the reference to an employer or
12 proposed employer included a reference
13 to the student’s education provider; and

14 (ii) the reference to employ or propose to
15 employ the applicant in child-related
16 employment included a reference to the
17 student being employed or proposed to
18 be employed in child-related
19 employment as part of a course with an
20 education provider;

21 and

22

23 (b) in paragraph (c) delete “13(3)” and insert:

24

25 13AA(4)

26

27 (c) in paragraphs (f) and (h) delete “his or her” and insert:

28

29 the student’s

30

s. 10

- 1 (d) in paragraph (h) delete “subsection.” and insert:
2
3 subsection; and
4
5 (e) after paragraph (h) insert:
6
7 (i) section 34B(1) applies as if —
8 (i) a reference to an employer or proposed
9 employer included a reference to the
10 student’s education provider; and
11 (ii) a reference to employ or propose to
12 employ a person in child-related
13 employment included a reference to the
14 student being employed or proposed to
15 be employed in child-related
16 employment as part of a course with an
17 education provider.
18

19 Note: The heading to amended section 9A is to read:

20 **Application of certain provisions to students**

21 **10. Section 9 amended**

- 22 (1) In section 9(1) delete “(the *employer*)”.
- 23 (2) Delete section 9(3) and insert:
24
25 (3) The approved form must include provision for —
26 (a) identifying information to be given about the
27 applicant; and
28 (b) information about the person who employs, or
29 proposes to employ, the applicant in
30 child-related employment.

1 (3A) The approved form may require the provision of any
2 other information the CEO thinks fit.

3

4 (3) After section 9(4) insert:

5

6 (5) The regulations may prescribe other requirements that
7 apply in relation to an application or the consideration
8 of an application.

9

10 Note: The heading to amended section 9 is to read:

11 **Application for assessment notice (child-related employment)**

12 **11. Section 10 amended**

13 (1) After section 10(3) insert:

14

15 (3A) The approved form may require the provision of any
16 other information the CEO thinks fit.

17

18 (2) After section 10(4) insert:

19

20 (5) The regulations may prescribe other requirements that
21 apply in relation to an application or the consideration
22 of an application.

23

24 Note: The heading to amended section 10 is to read:

25 **Application for assessment notice (child-related business)**

s. 12

1 **12. Section 11 amended**

2 (1) After section 11(2) insert:

3

4 (3A) In addition, the applicant is taken to have withdrawn
5 the application if —

- 6 (a) an employer or proposed employer identified
7 by the applicant for the purposes of the
8 application fails, within a period determined by
9 the CEO to be reasonable in the circumstances,
10 to verify that they employ or propose to employ
11 the applicant in child-related employment; and
- 12 (b) the CEO gives the applicant a written notice
13 that informs the applicant that if a verification
14 of the kind referred to in paragraph (a) is not
15 provided to the CEO within a reasonable
16 specified period then the applicant’s application
17 will be taken to have been withdrawn; and
- 18 (c) the verification is not provided to the CEO
19 within the specified period under paragraph (b);
20 and
- 21 (d) the CEO gives the applicant a written notice
22 stating that the applicant is taken to have
23 withdrawn the application.
24

25 (2) In section 11(3)(b) delete “subsection (2)(d),” and insert:

26

27 subsection (2)(d) or (3A)(d),

28

29 (3) In section 11(4) delete “section 17(3)(d)(i).” and insert:

30

31 section 17(3)(d)(i) or 17B(2)(b)(i).
32

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13. Section 12 amended

(1) Delete section 12(2) and insert:

(2) The CEO must not decide the application unless the CEO has —

- (a) made a criminal record check in respect of the applicant; and
- (b) checked whether notice of a conduct review finding or outcome has been received under section 17A(3) in respect of the applicant.

(2) In section 12(3) in the Table:

(a) in item 1 in the 2nd column paragraph (b) delete “applicant.” and insert:

applicant; or

(b) in item 1 in the 2nd column after paragraph (b) insert:

(c) any conduct review finding or outcome.

(c) delete items 3 and 4 and insert:

| | | |
|-----|--|----------|
| 2A. | The CEO is aware that the applicant is, or has been, the subject of a conduct review finding or outcome other than as a result of a notice under section 17A(3). | s. 12(4) |
|-----|--|----------|

s. 13

| | | |
|-----|---|----------|
| 3. | The CEO is aware of a pending charge against the applicant in respect of a Class 3 offence, other than as a result of — (a) a notice under section 16(1) or 17(1); or (b) designated information as defined in section 17(1A). | s. 12(4) |
| 3A. | The CEO is aware that the applicant is, or has been, the subject of a conduct review finding or outcome as a result of a notice under section 17A(3). | s. 12(5) |
| 4. | The CEO is aware of a pending charge against the applicant in respect of a Class 3 offence as a result of — (a) a notice under section 16(1) or 17(1); or (b) designated information as defined in section 17(1A). | s. 12(5) |

1

2

3

4

(d) in item 8 delete “a Class 1 offence or”;

(e) after item 9 insert:

| | | |
|-----|--|----------|
| 9A. | The CEO is aware of a pending charge against the applicant in respect of a Class 1 offence that was allegedly committed by the applicant when a child. | s. 12(6) |
|-----|--|----------|

5

1
2

(f) after item 10 insert:

| | | |
|------|--|----------|
| 10A. | The CEO is aware — (a) of a Class 1 offence (that was not committed by the applicant when a child) of which the applicant has been convicted; and (b) that the applicant has been granted a pardon in respect of that offence. | s. 12(6) |
| 10B. | The CEO is aware of a pending charge against the applicant in respect of a Class 1 offence that was not allegedly committed by the applicant when a child. | s. 12(7) |

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(g) in item 11 delete “convicted.” and insert:

convicted, other than where the applicant has been granted a pardon in respect of that offence.

9
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18

(3) In section 12(8):

(a) delete “offence, the CEO is to decide whether he or she is satisfied in relation to the particular or exceptional circumstances of the case” and insert:

offence or a conduct review finding or outcome, the CEO must decide whether the CEO is satisfied in relation to the particular or exceptional circumstances of the case,

s. 13

- 1 (b) in paragraph (a) delete “children;” and insert:
2
3 children; and
4
- 5 (c) in paragraphs (b) and (c) delete “committed;” and insert:
6
7 committed or the relevant conduct occurred or is alleged
8 to have occurred; and
9
- 10 (d) in paragraph (d) after “offence” insert:
11
12 or relevant conduct
13
- 14 (e) in paragraph (e)(ii) delete “applicant;” and insert:
15
16 applicant; or
17
- 18 (f) after paragraph (e)(ii) insert:
19
20 (iii) any conduct review finding or outcome
21 in relation to the applicant;
22
- 23 (4) In section 12(8) after each of paragraphs (d) to (f) insert:
24
25 and
26

1 **14. Section 13A amended**

2 In section 13A(1)(b):

3 (a) delete “that applicant” and insert:

4

5 the applicant

6

7 (b) delete “person — the CEO is to give a copy of the notice
8 to the other person.” and insert:

9

10 person, the CEO must —

11 (i) if an assessment notice is issued — give
12 details contained in the assessment
13 notice to the other person in the manner
14 or form the CEO thinks fit (including by
15 giving a copy of the assessment notice
16 to the other person); and

17 (ii) if a negative notice is issued — give a
18 copy of the negative notice to the other
19 person.
20

21 **15. Section 13 replaced**

22 Delete section 13 and insert:

23

24 **13. CEO to give notice of intention to issue negative
25 notice**

26 (1) If the CEO proposes or is required to decide an
27 application under section 12 by issuing a negative
28 notice to the applicant, the CEO must give the
29 applicant a written notice that —

30 (a) informs the applicant of the proposal or
31 requirement; and

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- 1 (b) states the information about —
2 (i) the applicant’s criminal record of which
3 the CEO is aware; and
4 (ii) any conduct review finding or outcome
5 relating to the applicant of which the
6 CEO is aware as a result of a notice
7 under section 17A(3);
8 and
9 (c) invites the applicant to make a submission to
10 the CEO, in writing or in another form
11 approved by the CEO, within a specified time
12 about the information and about the applicant’s
13 suitability to be issued with an assessment
14 notice.
- 15 (2) If the information stated in a notice under
16 subsection (1) about an applicant’s criminal record
17 includes a Class 1 offence (other than a Class 1 offence
18 committed or allegedly committed by the applicant
19 when a child) of which the applicant has been
20 convicted, or for which the applicant has a pending
21 charge, the applicant may make a submission to the
22 CEO under this section only if the applicant reasonably
23 believes that the applicant’s criminal record does not
24 include that conviction or charge.
- 25 (3) The specified time referred to in subsection (1)(c) must
26 be reasonable and, in any case, at least 28 days after the
27 CEO gives the applicant the notice.
- 28 (4) Subsection (2) does not apply if the applicant has been
29 granted a pardon in respect of the Class 1 offence.
- 30 (5) Before deciding the application, the CEO must
31 consider any submission made by the applicant within
32 the specified time.

13AA. Interim negative notice

- 1
- 2 (1) Subsections (2) and (3) apply in relation to a person if
- 3 the CEO —
- 4 (a) has received an application for an assessment
- 5 notice made by the person and the application
- 6 is pending; or
- 7 (b) has decided to act under section 17(3)(d)
- 8 or 17B(2)(b) in respect of the person; or
- 9 (c) is acting under section 20 in respect of the
- 10 person if the correct notice that would be
- 11 substituted is a negative notice; or
- 12 (d) is given a notice that the CEO must treat under
- 13 section 32(1) as an application by the person
- 14 for an assessment notice.
- 15 (2) The CEO may issue an interim negative notice to the
- 16 person if the CEO is of the opinion that there is a
- 17 reasonable likelihood that the circumstances will result
- 18 in a negative notice being issued to the person.
- 19 (3) The CEO must issue an interim negative notice to the
- 20 person if the CEO is aware that the person —
- 21 (a) has been convicted of a Class 1 offence (other
- 22 than a Class 1 offence committed by the person
- 23 when a child or in respect of which the person
- 24 has been granted a pardon); or
- 25 (b) has a pending charge in respect of a Class 1
- 26 offence (other than a Class 1 offence allegedly
- 27 committed by the person when a child).
- 28 (4) If the CEO is aware that the person to whom an interim
- 29 negative notice is issued is employed, or is proposed to
- 30 be employed, in child-related employment by another
- 31 person, the CEO must give a copy of the interim
- 32 negative notice to the other person.

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- 1 (5) An interim negative notice ceases to have effect when
2 an assessment notice or negative notice is issued to the
3 person.
4

5 **16. Section 17 amended**

- 6 (1) Before section 17(1) insert:
7

- 8 (1A) In this section —

9 ***designated authority*** means —

- 10 (a) the Commissioner; or
11 (b) a department of the Public Service; or
12 (c) a body (whether incorporated or not), or the
13 holder of an office, post or position, that —
14 (i) is established, constituted or continued
15 for a public purpose under a written
16 law; and
17 (ii) under the authority of a written law,
18 performs a statutory function on behalf
19 of this State;

20 or

- 21 (d) any other person or body, or person or body of
22 a class, prescribed by the regulations for the
23 purposes of this definition;

24 ***designated information*** means information given to
25 the CEO by —

- 26 (a) the Commissioner of the Australian Federal
27 Police; or
28 (b) the Commissioner (however designated) of the
29 police force of another jurisdiction; or

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(c) any other person or body, or person or body of a class, prescribed by the regulations for the purposes of this definition.

(2) In section 17(1):

(a) delete “the Commissioner” (1st occurrence) and insert:

a designated authority

(b) delete “Commissioner” (2nd and 3rd occurrences) and insert:

designated authority

(c) delete “notice of —” and insert:

notice of the following —

(d) in paragraph (c) delete “address; and” and insert:

any former name or alias;

(e) in paragraph (d) delete “birth; and” and insert:

birth;

(f) after paragraph (d) insert:

(da) the person’s address and other contact details;

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- 1 (g) in paragraph (e) delete “convicted; and” and insert:
2
3 convicted;
4
- 5 (h) in paragraph (f) delete “offence; and” and insert:
6
7 offence;
8
- 9 (i) after paragraph (f) insert:
10
11 (fa) without limiting paragraph (f), whether a victim
12 of the offence was a child at the time when the
13 offence was committed or allegedly committed
14 and, if so, the age of the victim at that time;
15
- 16 (j) in paragraph (g) delete “conviction.” and insert:
17
18 conviction;
19
- 20 (k) after paragraph (g) insert:
21
22 (h) any other information the designated authority
23 thinks fit.
24
- 25 (3) In section 17(2) delete “The Commissioner” and insert:
26
27 A designated authority
28

- 1 (4) In section 17(3):
2 (a) delete “subsection (1) or information under
3 section 34 —” and insert:
4
5 subsection (1), information under section 33A or 34 or
6 designated information —
7
8 (b) in paragraph (b) delete “offence, being a charge or
9 conviction of which the CEO was not previously aware
10 and the charge or conviction makes” and insert:
11
12 offence that may make
13
14 (5) After section 17(3) insert:
15
16 (3A) However, the CEO must not act under subsection (3) in
17 relation to information about a charge or conviction if
18 the CEO —
19 (a) was previously aware of the charge or
20 conviction; and
21 (b) decided to issue an assessment notice under
22 section 12(5) or (6) despite the existence of the
23 charge or conviction.
24

25 **17. Sections 17A to 17C inserted**

26 After section 17 insert:
27

28 **17A. Provision of information by conduct review**
29 **authority**

- 30 (1) In this section —
31 *designated conduct review authority*, for a conduct
32 review finding or outcome, means the conduct review

s. 17

- 1 authority prescribed by the regulations as the
2 designated conduct review authority in relation to
3 conduct review findings or outcomes of that kind.
- 4 (2) This section applies if —
- 5 (a) a person is, or has been, the subject of a
6 conduct review finding or outcome; and
- 7 (b) the conduct review authority that is the
8 designated conduct review authority for that
9 conduct review finding or outcome knows or
10 reasonably believes that the finding or outcome
11 is relevant to the performance of a function of
12 the CEO under this Act.
- 13 (3) The conduct review authority may give the CEO notice
14 of the following —
- 15 (a) the person's name and any former name or
16 alias;
- 17 (b) the person's date of birth;
- 18 (c) the person's address and other contact details;
- 19 (d) the conduct review finding or outcome;
- 20 (e) details of the relevant conduct;
- 21 (f) details of any person who employs the person
22 in child-related employment, or of any
23 child-related business carried on by the person
24 (to the extent that these details are known to the
25 conduct review authority);
- 26 (g) any other information of a kind prescribed by
27 the regulations.
- 28 (4) If a conduct review authority gives a notice to the CEO
29 under subsection (3) and the conduct review finding or
30 outcome to which the notice relates is subsequently
31 quashed, set aside or withdrawn expressly or impliedly,
32 or found to be unsubstantiated or incorrect, the conduct

- 1 review authority must give the CEO notice of this
2 change in circumstances.
- 3 (5) A conduct review authority may give a notice under
4 subsection (3) or (4) despite another Act or law.
- 5 (6) On receiving a notice from a conduct review authority
6 under subsection (3) or (4), the CEO may request the
7 conduct review authority to provide any further
8 information to the CEO that the CEO reasonably
9 requires for the purposes of this section.
- 10 (7) A conduct review authority to which a request is made
11 under subsection (6) is authorised to disclose the
12 information to the CEO.
- 13 (8) The information given by a conduct review authority
14 under this section may include information about, or
15 relating to, a finding or outcome that was made
16 before —
- 17 (a) the finding or outcome became a conduct
18 review finding or outcome under this Act; or
- 19 (b) the conduct review authority became the
20 designated conduct review authority for the
21 finding or outcome under this Act.
- 22 (9) This section does not limit the powers of the CEO to
23 request or obtain information under another provision
24 of this Act.

25 **17B. Action based on information received in relation to**
26 **conduct review finding or outcome**

- 27 (1) The CEO may, on the basis of a notice given under
28 section 17A, take action under subsection (2) if the
29 CEO is satisfied that there are reasonable grounds for
30 believing that the person to whom the notice relates —
- 31 (a) carries out child-related work or has a current
32 assessment notice; and

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- 1 (b) is, or has been, the subject of a conduct review
2 finding or outcome that may make it
3 inappropriate for the person to continue to carry
4 out child-related work or have an assessment
5 notice.
- 6 (2) The CEO may —
- 7 (a) if the person does not have a current assessment
8 notice, give the person a written notice
9 requiring the person to apply, within 10 days
10 after the date of the notice, for an assessment
11 notice; or
- 12 (b) if the person has a current assessment notice,
13 make a decision under section 12 as if —
- 14 (i) an application had been made by the
15 person under section 9 or 10, as the case
16 requires; and
- 17 (ii) a reference in section 12 to issuing an
18 assessment notice were a reference to
19 issuing an assessment notice or a further
20 assessment notice.
- 21 (3) A person must comply with a notice given to the
22 person under subsection (2)(a) within the period
23 referred to in that paragraph.
- 24 Penalty for this subsection: a fine of \$1 000.
- 25 (4) It is a defence to a charge of an offence under
26 subsection (3) to prove that, at the time the offence is
27 alleged to have been committed, the person was not
28 carrying out child-related work.

1 **17C. CEO may obtain further information about conduct**
2 **review finding or outcome**

3 (1) In this section —

4 *related authority*, in relation to a conduct review
5 finding or outcome, means a person or body (other than
6 a conduct review authority) —

7 (a) that made a finding, determination or decision
8 that resulted in, led to or comprised the conduct
9 review finding or outcome; or

10 (b) that —

11 (i) has been involved in any step or process
12 connected with, or otherwise related to,
13 the conduct review finding or outcome;
14 and

15 (ii) is a person or body, or person or body of
16 a class, prescribed by the regulations for
17 the purposes of this paragraph.

18 (2) This section applies in respect of a person —

19 (a) who has a current assessment notice; or

20 (b) who has applied to the CEO for an assessment
21 notice; or

22 (c) who has applied to the CEO for a negative
23 notice to be cancelled; or

24 (d) in relation to whom the CEO has decided to act
25 under section 17(3)(d) or 17B(2)(b); or

26 (e) in relation to whom the CEO is acting under
27 section 20; or

28 (f) who has applied to the State Administrative
29 Tribunal under section 26 or who is the subject

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- 1 of an appeal against a decision of the Tribunal
2 on an application under that section; or
3 (g) in relation to whom the CEO has been given a
4 notice that the CEO must treat under
5 section 32(1) as an application by the person
6 for an assessment notice.
- 7 (3) If the person is, or has been, the subject of a notice
8 given under section 17A in respect of a conduct review
9 finding or outcome, the CEO may request the conduct
10 review authority that gave the notice or a related
11 authority for any information relating to the person in
12 its possession that is connected with, or otherwise
13 related to, the conduct review finding or outcome.
- 14 (4) A conduct review authority or related authority to
15 which a request is made under subsection (3) is
16 authorised to disclose the information to the CEO.
- 17 (5) This section does not limit the powers of the CEO to
18 request or obtain information under another provision
19 of this Act.
20

21 **18. Section 18 amended**

22 In section 18(1) delete “section 16(3) or 17(3)(c)” and insert:

23
24 section 16(3), 17(3)(c) or 17B(2)(a)
25

26 Note: The heading to amended section 18 is to read:

27 **CEO may issue negative notice if notice issued by CEO not**
28 **obeyed**

1 **19. Section 19 amended**

2 (1) In section 19(2):

3 (a) in paragraph (b) delete “the most recent previous
4 application.” and insert:

5
6 the date of the CEO’s notice under subsection (10); or
7

8 (b) after paragraph (b) insert:

9
10 (c) if the person has applied, under section 26, for a
11 review of a decision by the CEO and the State
12 Administrative Tribunal has affirmed the
13 CEO’s decision — the date of the Tribunal’s
14 decision.
15

16 (2) In section 19(3):

17 (a) in paragraph (a) delete “or the previous application was
18 made,” and insert:

19
20 the previous application was made, or the CEO’s
21 decision was affirmed,
22

23 (b) in paragraph (b) delete “any” and insert:

24
25 an
26

27 (c) in paragraph (b) delete “or the previous application was
28 made,” and insert:

29
30 the previous application was made, or the CEO’s
31 decision was affirmed,
32

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(d) after paragraph (b) insert:

(ba) a Class 1 offence of which the person was convicted when the negative notice was issued, the previous application was made, or the CEO's decision was affirmed, is later the subject of a pardon granted to the person; or

(e) in paragraph (c) delete "conviction." and insert:

conviction; or

(f) after paragraph (c) insert:

(d) a conduct review finding or outcome of which notice was given under section 17A(3) and which was taken into account when the negative notice was issued, the previous application was made, or the CEO's decision was affirmed, is later quashed, set aside or withdrawn expressly or impliedly, or found to be unsubstantiated or incorrect.

(3) After section 19(4) insert:

(4A) Subsection (3)(d) does not apply if the conduct review finding or outcome is replaced by another conduct review finding or outcome.

Note: The heading to amended section 19 is to read:

Application for cancellation of negative notice

1 **20. Section 21A amended**

2 (1) In section 21A(1) after “section 17(1)” insert:

3

4 or 17A(3)

5

6 (2) In section 21A(2) after “section 17(3)(d)” insert:

7

8 or 17B(2)(b)

9

10 Note: The heading to amended section 21A is to read:

11 **Cancellation of assessment notices of certain people not involved**
12 **in child-related work**

13 **21. Section 21C amended**

14 In section 21C(1)(b):

15 (a) delete “he or she” and insert:

16

17 the person

18

19 (b) delete “work” and insert:

20

21 employment

22

23 Note: The heading to amended section 21C is to read:

24 **Cancellation of assessment notices of certain people to whom**
25 **s. 32 applies**

s. 22

1 **22. Section 25 amended**

2 (1) Delete section 25(2) and insert:

3

4 (2) Subsection (1) does not apply to a person who, at the
5 time the offence is alleged to have been committed —

6 (a) has been convicted of a Class 1 offence (other
7 than a Class 1 offence committed by the person
8 when a child or in respect of which the person
9 has been granted a pardon); or

10 (b) has a pending charge in respect of a Class 1
11 offence (other than a Class 1 offence allegedly
12 committed by the person when a child).

13

14 (2) In section 25(4):

15 (a) delete paragraph (a) and insert:

16

17 (a) who —

18 (i) has been convicted of a Class 1 offence
19 (other than a Class 1 offence committed
20 by the person when a child); or

21 (ii) has a pending charge in respect of a
22 Class 1 offence (other than a Class 1
23 offence allegedly committed by the
24 person when a child);

25 or

26

27 (b) in paragraph (b) before “carrying out” insert:

28

29 who is

30

1 (3) In section 25(6)(a) delete “section 16(3) or 17(3)(c); or” and
2 insert:

3

4 section 16(3), 17(3)(c) or 17B(2)(a); or

5

6 (4) In section 25(7) delete “section 17(3)(d).” and insert:

7

8 section 17(3)(d) or 17B(2)(b).

9

10 Note: The heading to amended section 25 is to read:

11

Defences for an offence under s. 24

12 **23. Section 26 amended**

13 (1) In section 26(3A) delete “section 13(1)(a)(iii)” and insert:

14

15 section 13(1)(c)

16

17 (2) In section 26(3B)(b) delete “section 13(1)(a)(ii) having been
18 invited to do so by” and insert:

19

20 section 13(1)(c) having been invited to do so by the

21

22 (3) After section 26(3) insert:

23

24 (4) A decision by the State Administrative Tribunal under
25 the *State Administrative Tribunal Act 2004* section 29
26 so as to provide for the issue of an assessment
27 notice —

28 (a) has effect as a decision of the CEO from the
29 date of the Tribunal’s decision; and

s. 24

- 1 (b) does not affect the operation of any other
2 provision of this Act as it applies before the
3 date of the Tribunal’s decision.
4

5 **24. Section 29 amended**

6 In section 29(2) delete the Penalty.

7 **25. Section 32A amended**

8 In section 32A:

- 9 (a) delete “If a person who has had his or her assessment
10 notice cancelled (the *cancelled assessment notice*)
11 under section 31(5) —” and insert:

12
13 If —

- 14
15 (b) in paragraph (a) before “has applied” insert:

16
17 a person whose assessment notice has been cancelled
18 (the *cancelled assessment notice*) under section 31(5)
19

- 20 (c) in paragraph (b) delete “him or her” and insert:

21
22 the person
23

24 **26. Section 33 replaced**

25 Delete section 33 and insert:

26
27 **33. Class 1 offence: pending charge or conviction**
28 **prevents child-related work**

29 If the relevant change in a person’s criminal record is
30 that the person is charged with or convicted of a

- 1 Class 1 offence (other than a Class 1 offence
2 committed or allegedly committed by the person when
3 a child), the person must not —
4 (a) be employed in child-related employment; or
5 (b) carry on a child-related business.
6 Penalty: imprisonment for 5 years and a fine of
7 \$60 000.
8

9 **27. Part 3 Division 1A inserted**

10 After Part 3 Division 1 insert:
11

12 **Division 1A — Designated changes in criminal record**

13 **33A. Commissioner may give information about change**
14 **in criminal record**

- 15 (1) This section applies in respect of a person —
16 (a) who has a current assessment notice; or
17 (b) who has applied to the CEO for an assessment
18 notice if the application is pending; or
19 (c) who has applied to the CEO for a negative
20 notice to be cancelled if the application is
21 pending; or
22 (d) in relation to whom the CEO has decided to act
23 under section 17(3)(d) or 17B(2)(b); or
24 (e) in relation to whom the CEO is acting under
25 section 20; or
26 (f) in relation to whom the CEO has been given a
27 notice that the CEO must treat under
28 section 32(1) as an application by the person
29 for an assessment notice if the application is
30 pending.

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- 1 (2) For the purposes of this section, there is a *designated*
2 *change* in the person's criminal record, whether or not
3 the person has a criminal record, if —
- 4 (a) the person is charged with or convicted of an
5 offence; or
- 6 (b) the person becomes subject to a non-conviction
7 charge; or
- 8 (c) there is a change in any other information
9 mentioned in the person's criminal record.
- 10 (3) The Commissioner may give the CEO the following
11 information in connection with a designated change in
12 the person's criminal record —
- 13 (a) details of the change in the person's criminal
14 record;
- 15 (b) information that is connected with, or otherwise
16 related to, the change in the person's criminal
17 record;
- 18 (c) any other information the Commissioner thinks
19 fit.
- 20 (4) The CEO may give the Commissioner any information
21 that is reasonably required in connection with the
22 exercise of the Commissioner's powers under this
23 section.
- 24 (5) This section does not limit the powers of the
25 Commissioner to disclose information under another
26 provision of this or any other Act.
27

1 **28. Section 34 amended**

2 (1) Delete section 34(1) and insert:

3

4 (1) In this section —

5 **DPP** means —

6 (a) the Director of Public Prosecutions appointed

7 under the *Director of Public Prosecutions*

8 *Act 1991* section 5; or

9 (b) a person or body exercising functions that

10 substantially correspond to the functions of the

11 Director of Public Prosecutions under a law of

12 another jurisdiction.

13

14 (2) Delete section 34(2)(d) and insert:

15

16 (d) in relation to whom the CEO has decided to act

17 under section 17(3)(d) or 17B(2)(b); or

18 (e) in relation to whom the CEO is acting under

19 section 20; or

20 (f) who has applied to the State Administrative

21 Tribunal under section 26 or who is the subject

22 of an appeal against a decision of the Tribunal

23 on an application under that section; or

24 (g) in relation to whom the CEO has been given a

25 notice that the CEO must treat under

26 section 32(1) as an application by the person

27 for an assessment notice.

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- 1 (3) In section 34(3) delete “the Commissioner or a criminal records
2 agency for information or access to the respective records of the
3 Commissioner or” and insert:
4
- 5 a criminal records agency for information or access to the
6 records of
7
- 8 (4) In section 34(4) delete “an authorised person or a criminal
9 records agency for information about the circumstances of” and
10 insert:
11
- 12 a criminal records agency or the DPP for any information
13 relating to the person in their possession that is connected with,
14 or otherwise related to,
15
- 16 (5) Delete section 34(5) and insert:
17
- 18 (5) A person or body in this State to which a request is
19 made by the CEO under this section is authorised to
20 disclose the requested information to the CEO.
- 21 (6) This section does not limit the powers of the CEO to
22 request or obtain information under another provision
23 of this Act.
24

1 **29. Parts 3A and 3B inserted**

2 After section 34 insert:

3

4 **Part 3A — Information gathering and sharing**

5 **34A. General power to obtain, use and disclose**
6 **information**

7 (1) In this section —

8 *CEO (Education)* means the chief executive officer of
9 the department of the Public Service principally
10 assisting in the administration of the *School Education*
11 *Act 1999*;

12 *CEO (Health)* means the chief executive officer of the
13 department of the Public Service principally assisting
14 in the administration of the *Health Services Act 2016*;

15 *relevant information* means —

16 (a) information that the CEO considers to be
17 relevant to —

18 (i) a person to whom Part 2 applies
19 (including a person who is subject to the
20 application of section 32); or

21 (ii) a person who has applied to the State
22 Administrative Tribunal under
23 section 26;

24 or

25 (b) information that the CEO considers to be
26 relevant to whether —

27 (i) a person should be issued an assessment
28 notice, a further assessment notice, a
29 negative notice or an interim negative
30 notice; or

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- 1 (ii) an assessment notice or a negative
2 notice should be cancelled;
- 3 or
- 4 (c) any other information prescribed by the
5 regulations for the purposes of this definition.
- 6 (2) The CEO may request relevant information for a WWC
7 purpose from any person or body that, in the opinion of
8 the CEO, may possess relevant information.
- 9 (3) A person or body in this State to which a request is
10 made under subsection (2) is authorised to disclose
11 relevant information to the CEO.
- 12 (4) The following persons and bodies must comply with a
13 request under subsection (2) —
- 14 (a) the CEO (Education);
15 (b) the CEO (Health);
16 (c) a health service provider as defined in the
17 *Health Services Act 2016* section 6.
- 18 (5) The CEO may use relevant information obtained by the
19 CEO from any source for a WWC purpose.
- 20 (6) The CEO may disclose relevant information for a
21 WWC purpose to —
- 22 (a) a government agency; or
23 (b) a criminal records agency.
- 24 (7) This section does not limit the powers of the CEO to
25 request, obtain or disclose information under another
26 provision of this Act.
- 27 **34B. Disclosure of information to employer or proposed**
28 **employer**
- 29 (1) The CEO may disclose the following information to an
30 employer or proposed employer who employs or

- 1 proposes to employ in child-related employment a
2 person who is applying for an assessment notice or
3 who holds a current assessment notice —
- 4 (a) information relevant to the identity of the
5 person;
 - 6 (b) information relevant to the employer or
7 proposed employer verifying that they employ
8 or propose to employ the person in child-related
9 employment;
 - 10 (c) any other information prescribed by the
11 regulations for the purposes of this subsection.

- 12 (2) This section does not limit the powers of the CEO to
13 disclose information under another provision of this
14 Act.

15 **34C. Power to require reports from CEO (Justice)**

- 16 (1) In this section —
- 17 ***prescribed report*** means any of the following —
- 18 (a) a written pre-sentence report, or a record of an
19 oral pre-sentence report, made under the
20 *Sentencing Act 1995* Part 3 Division 3;
 - 21 (b) a report prepared for the purposes of the
22 *Sentence Administration Act 2003* section 11A,
23 17 or 51;
 - 24 (c) a report prepared for the purposes of the *Young*
25 *Offenders Act 1994* section 47, 48(1) or 159;
 - 26 (d) a report —
 - 27 (i) made under, or prepared for the
28 purposes of, the *Bail Act 1982*, the
29 *Dangerous Sexual Offenders Act 2006*
30 (repealed), the *High Risk Serious*
31 *Offenders Act 2020*, the *Prisons*
32 *Act 1981*, the *Sentence*

s. 29

- 1 *Administration Act 2003, the Sentencing*
2 *Act 1995 or the Young Offenders*
3 *Act 1994; and*
- 4 (ii) of a kind prescribed by the regulations
5 for the purposes of this definition.
- 6 (2) The CEO may, for a WWC purpose, by written notice
7 request the CEO (Justice) to give the CEO a copy of a
8 prescribed report.
- 9 (3) A request to the CEO (Justice) under this section may
10 only relate to obtaining a report about an offender or
11 alleged offender.
- 12 (4) The CEO (Justice) must comply with a request under
13 this section within a reasonable period after the request
14 is received.
- 15 (5) The CEO (Justice) is authorised to provide the
16 requested report to the CEO.
- 17 (6) This section does not limit the operation of
18 section 34A.
- 19 **34D. Exchange of information with corresponding**
20 **authorities**
- 21 (1) The CEO may disclose to a corresponding authority
22 information obtained or created under this Act that —
- 23 (a) relates to —
- 24 (i) a person’s criminal record; or
25 (ii) a conduct review finding or outcome; or
26 (iii) an application made by a person under
27 this Act; or
28 (iv) a decision to issue an assessment notice,
29 a further assessment notice, a negative
30 notice or an interim negative notice;

- 1 or
- 2 (b) may otherwise be relevant to the performance
- 3 of a function of the corresponding authority that
- 4 substantially corresponds to a function of the
- 5 CEO under this Act.
- 6 (2) The CEO may request a corresponding authority to
- 7 disclose to the CEO information obtained or created by
- 8 the corresponding authority that —
- 9 (a) corresponds to the information referred to in
- 10 subsection (1)(a) and relates to a person who
- 11 has made an application, or has been issued
- 12 with a notice, under this Act; or
- 13 (b) may otherwise be relevant to the performance
- 14 of a function of the CEO under this Act.
- 15 **34E. Exchange of information under *National Disability***
- 16 ***Insurance Scheme (Worker Screening) Act 2020***
- 17 (1) In this section —
- 18 ***CEO (NDIS)*** means the chief executive officer of the
- 19 department of the Public Service principally assisting
- 20 in the administration of the *National Disability*
- 21 *Insurance Scheme (Worker Screening) Act 2020*;
- 22 ***interstate screening agency*** means an interstate
- 23 screening agency as defined in the *National Disability*
- 24 *Insurance Scheme (Worker Screening) Act 2020*
- 25 section 5(1).
- 26 (2) The CEO may disclose to the CEO (NDIS) or an
- 27 interstate screening agency information obtained or
- 28 created under this Act that —
- 29 (a) relates to —
- 30 (i) a person’s criminal record; or
- 31 (ii) a conduct review finding or outcome; or

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- 1 (iii) an application made by a person under
2 this Act; or
- 3 (iv) a decision to issue an assessment notice,
4 a further assessment notice, a negative
5 notice or an interim negative notice;
- 6 or
- 7 (b) may otherwise be relevant to the performance
8 of a function of —
- 9 (i) the CEO (NDIS) under a law of this
10 State; or
- 11 (ii) the interstate screening agency under a
12 law of another jurisdiction.
- 13 (3) The CEO may request the CEO (NDIS) or an interstate
14 screening agency to disclose to the CEO information
15 obtained or created by the CEO (NDIS) or the
16 interstate screening agency that —
- 17 (a) corresponds to the information referred to in
18 subsection (2)(a) and relates to a person who
19 has made an application, or has been issued
20 with a notice, under this Act; or
- 21 (b) may otherwise be relevant to the performance
22 of a function of the CEO under this Act.
- 23 (4) However, a prescribed report obtained from the
24 CEO (Justice) under section 34C cannot be disclosed
25 under subsection (2) without the approval of the
26 CEO (Justice).

27 **34F. Disclosure of information to authorised entities**

- 28 (1) In this section —
- 29 *authorised entity* means —
- 30 (a) a public authority prescribed by the regulations
31 for the purposes of this definition; or

- 1 (b) a criminal records agency.
- 2 (2) If the CEO considers it to be in the public interest to do
3 so, the CEO may, by written notice, disclose the
4 following information to an authorised entity —
- 5 (a) that an application for an assessment notice has
6 been made by a person in respect of which no
7 decision has yet been made under section 12;
- 8 (b) that an assessment notice has been issued to a
9 person;
- 10 (c) that an application for an assessment notice has
11 been withdrawn by a person;
- 12 (d) that a negative notice has been issued to a
13 person;
- 14 (e) that an interim negative notice has been issued
15 to a person;
- 16 (f) that an assessment notice issued to a person has
17 been cancelled under section 21A or 21C;
- 18 (g) that a person does not have a current
19 assessment notice.
- 20 (3) If the CEO gives a notice to an authorised entity under
21 subsection (2) that discloses information about a person
22 and an assessment notice is subsequently issued to the
23 person, the CEO must give notice of the issuing of the
24 assessment notice to the authorised entity.
- 25 (4) If the CEO gives a notice to an authorised entity under
26 subsection (2) that discloses the information referred to
27 in subsection (2)(d) and the negative notice is
28 subsequently cancelled without an assessment notice
29 being issued, the CEO must give notice of the
30 cancellation of the negative notice to the authorised
31 entity.

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- 1 (5) This section does not limit the powers of the CEO to
2 disclose information under another provision of this
3 Act.
- 4 **34G. Disclosure of information to Australian Crime**
5 **Commission**
- 6 (1) In this section —
7 *ACC* means the Australian Crime Commission
8 established under the *Australian Crime Commission*
9 *Act 2002* (Commonwealth) section 7.
- 10 (2) The CEO may disclose the following information to
11 the ACC for inclusion in a national register or database
12 established under the *Australian Crime Commission*
13 *Act 2002* (Commonwealth) —
- 14 (a) that a negative notice or an interim negative
15 notice has been issued to a person;
- 16 (b) any other information relating to a negative
17 notice or an interim negative notice prescribed
18 by the regulations for the purposes of this
19 subsection;
- 20 (c) in connection with the disclosure of
21 information under paragraph (a) or (b) —
- 22 (i) the name, address and date of birth of
23 the person to whom the information
24 relates; and
- 25 (ii) any other identifying information the
26 CEO considers to be relevant in the
27 circumstances.
- 28 (3) If the CEO discloses information to the ACC under
29 subsection (2)(a) and the negative notice or interim
30 negative notice is subsequently cancelled, the CEO
31 must provide information about the cancellation to
32 the ACC.

1 (4) If the CEO discloses information to the ACC under
2 subsection (2)(b) or (c) and the information is no
3 longer up to date or found to be incorrect or inaccurate
4 in some other respect, the CEO may disclose new or
5 revised information to the ACC.

6 (5) This section does not limit the powers of the CEO to
7 disclose information under another provision of this
8 Act.

9 **34H. Disclosure of information relevant to protection of**
10 **children or other persons**

11 (1) In this section —

12 **CEO (Children and Community Services)** means the
13 CEO as defined in the *Children and Community*
14 *Services Act 2004* section 3;

15 **prescribed authority** means —

16 (a) a public authority; or

17 (b) the CEO (Children and Community Services);
18 or

19 (c) a person or body in another jurisdiction with
20 functions that substantially correspond to the
21 functions of the CEO (Children and
22 Community Services); or

23 (d) the Commissioner; or

24 (e) the Commissioner of the Australian Federal
25 Police; or

26 (f) the Commissioner (however designated) of the
27 police force of another jurisdiction; or

28 (g) an external government agency prescribed by
29 the regulations for the purposes of this
30 definition; or

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- 1 (h) any other person or body, or person or body of
2 a class, prescribed by the regulations for the
3 purposes of this definition.
- 4 (2) The CEO may disclose to a prescribed authority any
5 information obtained or created as a result of the
6 performance of a function or the exercise of a power
7 under this Act —
- 8 (a) that, in the opinion of the CEO, is, or is likely
9 to be, relevant to the wellbeing of a child or a
10 class or group of children; or
- 11 (b) without limiting paragraph (a), in the case of
12 disclosure to the CEO (Children and
13 Community Services) — that, in the opinion of
14 the CEO, is, or is likely to be, relevant to —
- 15 (i) the wellbeing of a person who under the
16 *Children and Community Services*
17 *Act 2004* section 96 qualifies for
18 assistance for the purposes of Part 4
19 Division 6 of that Act; or
- 20 (ii) the safety of a person who has been
21 subjected to, or exposed to, family
22 violence; or
- 23 (iii) the administration of the *Children and*
24 *Community Services Act 2004*;
- 25 or
- 26 (c) that is information of a kind prescribed by the
27 regulations for the purposes of this subsection.
- 28 (3) However, a prescribed report obtained from the
29 CEO (Justice) under section 34C cannot be disclosed
30 under subsection (2) without the approval of the
31 CEO (Justice).

- 1 (4) This section does not limit or derogate from any other
2 Act or law relating to the disclosure of information for
3 the protection of children or other persons.

4 **34I. Sharing of police information**

- 5 (1) In this section —
6 *relevant purpose* means —
7 (a) a WWC purpose; or
8 (b) a purpose that is for, or connected with, the
9 operation or administration of, or compliance
10 with, a corresponding law.
- 11 (2) The Commissioner may disclose the following
12 information about a person for a relevant purpose —
13 (a) information relating to the person’s criminal
14 record;
15 (b) without limiting paragraph (a), information
16 relating to —
17 (i) a person that is connected with, or
18 otherwise related to, a conviction or
19 charge mentioned in a criminal record;
20 or
21 (ii) the investigation or circumstances of
22 any conduct or alleged conduct.
- 23 (3) A disclosure under this section is limited to the
24 following —
25 (a) the CEO;
26 (b) a corresponding authority;
27 (c) the Commissioner of the Australian Federal
28 Police;
29 (d) the Commissioner (however designated) of the
30 police force of another jurisdiction;

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- 1 (e) a person or body that is —
2 (i) established or constituted under the law
3 of another jurisdiction; and
4 (ii) prescribed by the regulations for the
5 purposes of this subsection.
- 6 (4) A person to whom information is disclosed under this
7 section may disclose that information to a
8 corresponding authority.
- 9 (5) This section does not limit the powers of a person or
10 body to disclose information under another provision
11 of this Act.
- 12 (6) This section does not limit the persons to whom, or the
13 circumstances in which, information may be disclosed
14 apart from under this Act.

15 **Part 3B — Compliance and enforcement**

16 **Division 1 — Preliminary**

17 **34J. Terms used**

18 In this Part —

19 *authorised purpose* means —

- 20 (a) determining whether a person has complied
21 with this Act; or
22 (b) without limiting paragraph (a), investigating a
23 suspected offence under this Act;

24 *entry warrant* has the meaning given in
25 section 34V(1);

26 *investigation* means an investigation of a suspected
27 offence under this Act;

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record —

- (a) means a record of information, irrespective of how the information is recorded or stored or able to be recovered; and
- (b) includes —
 - (i) any thing from which images, sounds or writings can be reproduced, with or without the aid of anything else; and
 - (ii) any thing on which information is recorded or stored, whether electronically, magnetically, mechanically or by some other means;

relevant record means a record or document that contains information that is or may be relevant to —

- (a) determining whether a person has complied with this Act; or
- (b) without limiting paragraph (a), an offence under this Act.

Division 2 — Authorised officers

34K. Designation of authorised officers

The CEO may, in writing, designate officers of the Department to be authorised officers —

- (a) generally for the purposes of this Act; or
- (b) for the purposes of a provision of this Act specified in the designation.

34L. Identity cards

- (1) The CEO must ensure that each authorised officer is issued with an identity card in an approved form.
- (2) An authorised officer must display the authorised officer’s identity card whenever dealing with a person

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1 in respect of whom the officer has exercised, is
2 exercising, or is about to exercise, a power under this
3 Act.

4 (3) In any proceedings the production by an authorised
5 officer of the authorised officer's identity card is
6 conclusive evidence of their designation under
7 section 34K.

8 **Division 3 — Powers of authorised officers**

9 **34M. Entry to places**

- 10 (1) An authorised officer may, for an authorised purpose,
11 enter a place if —
12 (a) its occupier gives informed consent to the
13 entry; or
14 (b) the entry is authorised by an entry warrant.
- 15 (2) An occupier gives informed consent to entry to a place
16 if the occupier gives consent after being informed by
17 an authorised officer —
18 (a) of the powers the officer wants to exercise in
19 respect of the place; and
20 (b) of the reasons why the officer wants to exercise
21 those powers; and
22 (c) that the occupier can refuse to consent to the
23 officer entering the place.

24 **34N. Powers after entering place**

- 25 An authorised officer who enters a place under
26 section 34M(1) may, for an authorised purpose, do any
27 of the following —
28 (a) inspect the place and any thing at the place;
29 (b) search the place and any thing at the place;

- 1 (c) measure, test, photograph or film any part of, or
2 any thing at, the place;
- 3 (d) take any thing, or a sample of or from any
4 thing, at the place for analysis or testing;
- 5 (e) operate equipment or facilities at the place or
6 direct a person at the place to do so;
- 7 (f) make a copy of, or take an extract from, any
8 record or document at the place;
- 9 (g) seize any thing at the place that is or may afford
10 evidence of an offence under this Act;
- 11 (h) direct (orally or in writing) the occupier of the
12 place, or a person at the place, to give the
13 officer any assistance the officer reasonably
14 requires.

15 **340. Directions to provide information or documents**

- 16 (1) An authorised officer may, for an authorised purpose,
17 do any of the following —
- 18 (a) direct a person —
- 19 (i) to give information; or
- 20 (ii) to answer a question put by the officer;
- 21 (b) direct a person to produce a record or document
22 that is in the person's possession or under the
23 person's control;
- 24 (c) make a copy of a record or document produced
25 in response to a direction under paragraph (b).
- 26 (2) A direction under subsection (1)(a) —
- 27 (a) must specify the time at or within which the
28 information or answer must be given; and
- 29 (b) may require that the information or answer —
- 30 (i) be given orally or in writing; and

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- 1 (ii) be given at, or sent or delivered to, a
2 place specified in the direction; and
- 3 (iii) in the case of written information or a
4 written answer — be sent or delivered
5 by a means specified in the direction;
6 and
- 7 (iv) be verified by statutory declaration.
- 8 (3) A direction under subsection (1)(b) —
- 9 (a) must specify the time at or within which the
10 record or document must be produced; and
- 11 (b) may require that the record or document be
12 produced —
- 13 (i) at a place specified in the direction; and
14 (ii) by a means specified in the direction.
- 15 (4) A person is not excused from complying with a
16 direction under this section to give information, answer
17 a question or produce a record or document on the
18 ground that complying with the direction might tend to
19 incriminate the person or render the person liable to a
20 penalty.
- 21 (5) However, any information or answer given by an
22 individual in compliance with a direction under this
23 section is not admissible in evidence against the
24 individual in criminal or civil proceedings other than
25 proceedings for perjury or for an offence under
26 section 35.
- 27 (6) In directing a person under this section, an authorised
28 officer must explain to the person —
- 29 (a) that it is an offence to contravene the direction;
30 and
- 31 (b) the effect of subsections (4) and (5).

1 (7) A direction under this section may be given orally or in
2 writing.

3 **34P. Additional powers for relevant records**

4 An authorised officer may, for an authorised purpose,
5 do any of the following —

- 6 (a) operate a computer or other thing on which the
7 officer suspects on reasonable grounds a
8 relevant record is or may be stored or direct a
9 person who has the custody or control of the
10 computer or thing to do so;
- 11 (b) direct (orally or in writing) a person who is, or
12 appears to be, in control of a record or
13 document that the officer suspects on
14 reasonable grounds is a relevant record to give
15 the officer a translation, code, password or
16 other information necessary to gain access to,
17 or interpret and understand, the record or
18 document;
- 19 (c) make a copy of, take an extract from,
20 download, print, photograph or film a record or
21 document that the officer suspects on
22 reasonable grounds is a relevant record;
- 23 (d) seize a record or document that the officer
24 suspects on reasonable grounds is a relevant
25 record and retain it for as long as is necessary
26 for the purposes of this Act;
- 27 (e) seize a computer or other thing on which the
28 officer suspects on reasonable grounds a
29 relevant record is or may be stored and retain it
30 for as long as is necessary for the purposes of
31 this Act;

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- 1 (f) take reasonable measures to secure or protect a
2 relevant record, or computer or other thing on
3 which a relevant record is or may be stored,
4 against damage or unauthorised removal or
5 interference.

6 **34Q. Offence to contravene direction**

7 A person who, without reasonable excuse, fails to
8 comply with a direction given to the person under this
9 Division commits an offence.

10 Penalty: imprisonment for 12 months and a fine of
11 \$12 000.

12 **34R. Exercise of power may be recorded**

13 An authorised officer may record the exercise of a
14 power under this Division, including by making an
15 audiovisual recording.

16 **34S. Assistance and use of force to exercise power**

17 (1) An authorised officer exercising a power under this
18 Division may authorise as many other people to assist
19 in exercising the power as are reasonably necessary in
20 the circumstances.

21 (2) In exercising the power, an authorised officer, and a
22 person authorised under subsection (1) to assist the
23 officer, may use force that is reasonably necessary in
24 the circumstances.

25 **34T. Procedure for seizing things**

26 (1) If an authorised officer seizes any thing under this
27 Division, the officer must give the person who was in
28 possession of the thing a receipt for it in the approved
29 form.

- 1 (2) If an authorised officer seizes any thing under this
2 Division, the officer must, if practicable, allow a
3 person who is otherwise entitled to possession of the
4 thing to have reasonable access to it.
- 5 (3) An authorised officer who seizes any thing under this
6 Division may take reasonable measures to prevent the
7 thing being concealed, lost, damaged or destroyed.
- 8 (4) If it is not practicable to move a thing that has been
9 seized under this Division, an authorised officer may
10 do whatever is reasonably necessary to secure the thing
11 where it is situated and to notify people that it is under
12 seizure.
- 13 (5) A person must not, without the approval of an
14 authorised officer, interfere or deal with any thing that
15 the person knows, or ought reasonably to know, has
16 been seized under this Division by an authorised
17 officer.
- 18 Penalty for this subsection: imprisonment for
19 12 months and a fine of \$12 000.

20 **34U. Application of *Criminal and Found Property***
21 ***Disposal Act 2006***

- 22 (1) The *Criminal and Found Property Disposal Act 2006*
23 applies to any thing that is seized under this Division.
- 24 (2) For the purposes of the *Criminal and Found Property*
25 *Disposal Act 2006*, the Department is a prescribed
26 agency.

Division 4 — Entry warrants

34V. Application for entry warrant

- (1) An authorised officer may apply to a magistrate for a warrant (an *entry warrant*) authorising the entry of a place for an authorised purpose.
- (2) Subject to this section —
 - (a) an application for an entry warrant must be in writing and include the information prescribed by the regulations; and
 - (b) the grounds of the application must be verified by affidavit; and
 - (c) the applicant must appear in person before the magistrate to provide information in support of the application on oath.
- (3) An application for a warrant may be made by remote communication if a magistrate considers that such an application is reasonable in the circumstances.
- (4) If an application for an entry warrant is made by remote communication and it is not practicable to send the magistrate written material —
 - (a) the application may be made orally; and
 - (b) the magistrate must make a written record of the application and any information given in support of it; and
 - (c) if the warrant is issued — the applicant must, as soon as practicable, send the magistrate an affidavit verifying the application and any information given in support of it.

- 1 **34W. Issue and content of entry warrant**
- 2 (1) On an application for an entry warrant, a magistrate
- 3 may issue the warrant if satisfied that it is necessary for
- 4 an authorised officer to enter a place for an authorised
- 5 purpose.
- 6 (2) An entry warrant must contain the following
- 7 information —
- 8 (a) a reasonably particular description of the place
- 9 to which the warrant relates;
- 10 (b) a reasonably particular description of the
- 11 authorised purpose for which entry to the place
- 12 is required;
- 13 (c) if the authorised purpose is the investigation of
- 14 a suspected offence under this Act – the
- 15 provision of the Act suspected of being
- 16 contravened;
- 17 (d) the period, not exceeding 14 days, during which
- 18 the warrant may be executed;
- 19 (e) the name of the magistrate who issued the
- 20 warrant;
- 21 (f) the date and time when the warrant was issued.
- 22 (3) An entry warrant must be in the form prescribed by the
- 23 regulations.
- 24 (4) If a magistrate issues an entry warrant on an
- 25 application made by remote communication —
- 26 (a) if it is practicable to send a copy of the original
- 27 warrant to the applicant by remote
- 28 communication — the magistrate must do so;
- 29 or

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- 1 (b) if it is not practicable —
2 (i) the magistrate must provide the
3 applicant, by remote communication,
4 with the information that must be set out
5 in the warrant; and
6 (ii) the applicant must complete a form of
7 warrant with the information received
8 and give the magistrate a copy of the
9 form as soon as practicable after doing
10 so; and
11 (iii) the magistrate must attach the copy of
12 the form to the original warrant and any
13 affidavit received from the applicant,
14 and make them available for collection
15 by the applicant.
- 16 (5) The copy of the original warrant sent, or the form of
17 the warrant completed, under subsection (4) has the
18 same force and effect as the original warrant.

19 **34X. Refusal of entry warrant**

20 If a magistrate refuses to issue an entry warrant, the
21 magistrate must record on the application, or the
22 written record of the application, the fact of, the date
23 and time of, and the reasons for, the refusal.

24 **34Y. Effect of entry warrant**

- 25 (1) An entry warrant comes into force when it is issued by
26 a magistrate.
- 27 (2) An entry warrant may be executed according to its
28 terms by an authorised officer entitled to enter the
29 place for the authorised purpose specified in the
30 warrant.

- 1 (3) However, if an applicant for an entry warrant
2 contravenes section 34V(4)(c) or 34W(4)(b)(ii),
3 evidence obtained under the entry warrant is not
4 admissible in proceedings in a court or tribunal.

5 **Division 5 — Additional power to request or provide**
6 **information**

7 **34Z. Additional power to request information**

- 8 (1) In this section —
9 *prescribed entity* means —
10 (a) a public authority; or
11 (b) a criminal records agency; or
12 (c) a corresponding authority; or
13 (d) a Commonwealth agency or instrumentality; or
14 (e) a person or body, or person or body of a class,
15 prescribed by the regulations for the purposes
16 of this definition.
- 17 (2) The CEO may request the following information from
18 a prescribed entity —
19 (a) information that is relevant to determining
20 whether a person has complied with this Act,
21 including in relation to the investigation or
22 prosecution of a suspected or alleged offence
23 under this Act;
24 (b) information that is relevant to the safety of an
25 officer of the Department performing a function
26 or exercising a power under this Act.
- 27 (3) A person or body in this State to which a request is
28 made by the CEO under subsection (2) is authorised to
29 disclose the requested information to the CEO.

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1 (4) This section does not limit the powers of the CEO to
2 request or obtain information under another provision
3 of this Act.

4 **34ZA. Provision of information to justice authorities**

5 (1) In this section —

6 *justice authority* means —

- 7 (a) a public authority; or
8 (b) a government agency; or
9 (c) a criminal records agency; or
10 (d) a corresponding authority; or
11 (e) any other person or body that performs a
12 function connected with the administration or
13 operation of a law of this State or another
14 jurisdiction that imposes a penalty or sanction;
15 or
16 (f) a person or body, or person or body of a class,
17 prescribed by the regulations for the purposes
18 of this definition.

19 (2) The CEO may give a notice as described in
20 subsection (3) to a justice authority in relation to a
21 particular person if the CEO considers that the
22 information to be contained in the notice is relevant
23 to —

- 24 (a) determining or ensuring compliance with any
25 law, including a law of another jurisdiction; or
26 (b) the investigation of a contravention (or alleged
27 contravention) of any law, including a law of
28 another jurisdiction; or
29 (c) any other matter prescribed by the regulations.

- 1 (3) A notice under this section may include the following
2 information —
- 3 (a) contact details, employment details and
4 identifying information about a person who has
5 made an application under this Act;
- 6 (b) other information about the activities of a
7 person who is employed, or proposed to be
8 employed, in child-related employment or who
9 is carrying on, or proposing to carry on, a
10 child-related business;
- 11 (c) any other information prescribed by the
12 regulations for the purposes of this subsection.
- 13 (4) A notice under this section must be in writing.
- 14 (5) This section does not limit the powers of the CEO to
15 disclose information under another provision of this
16 Act.
- 17

18 **30. Section 35 amended**

19 After section 35(b) insert:

20

- 21 (ba) an authorised officer; or
- 22

23 Note: The heading to amended section 35 is to read:

24 **False or misleading information**

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1 **31. Sections 35A to 35C inserted**

2 After section 35 insert:

3

4 **35A. Obstruction of authorised officer**

5 A person must not obstruct or hinder an authorised
6 officer who is performing or attempting to perform a
7 function under this Act.

8 Penalty: imprisonment for 12 months and a fine of
9 \$12 000.

10 **35B. Impersonation of authorised officer**

11 A person must not falsely represent, by words or
12 conduct, that the person or another person is an
13 authorised officer.

14 Penalty: imprisonment for 12 months and a fine of
15 \$12 000.

16 **35C. Change in particulars**

- 17 (1) This section applies to a person —
- 18 (a) who has a current assessment notice; or
 - 19 (b) who has applied to the CEO for an assessment
20 notice and the application is pending; or
 - 21 (c) who has applied to the CEO for a negative
22 notice to be cancelled and the application is
23 pending; or
 - 24 (d) who is aware that the CEO is in the process of
25 making a decision under section 12 in relation
26 to the person because of the operation of
27 section 17(3)(d) or 17B(2)(b); or
 - 28 (e) who is aware that the CEO is acting under
29 section 20 in relation to the person; or

- 1 (f) who has given a notice to the CEO that the
2 CEO must treat under section 32(1) as an
3 application for an assessment notice and the
4 application is pending; or
- 5 (g) in any other circumstances prescribed by the
6 regulations.
- 7 (2) The person must notify the CEO of a relevant change
8 of particulars in accordance with this section as soon as
9 practicable after the change occurs.
10 Penalty for this subsection: a fine of \$5 000.
- 11 (3) For the purposes of subsection (2), a relevant change of
12 particulars is any of the following —
- 13 (a) a change in the person’s name, residential
14 address or contact details;
- 15 (b) the person starting child-related employment
16 with a particular employer;
- 17 (c) the person not starting child-related
18 employment with a particular proposed
19 employer;
- 20 (d) the person ceasing child-related employment
21 with a particular employer;
- 22 (e) the person starting to carry on a child-related
23 business;
- 24 (f) the person deciding not to start to carry on a
25 proposed child-related business;
- 26 (g) the person ceasing to carry on a child-related
27 business;
- 28 (h) if the person is a student —
- 29 (i) the person completing or otherwise
30 ceasing a course of study under which
31 the person may or must undertake

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- 1 child-related work as part of that course;
2 or
3 (ii) a change in the person's education
4 provider with whom the person is
5 completing a course of study under
6 which the person may or must undertake
7 child-related work as part of that course;
8 (i) a change prescribed by the regulations.
- 9 (4) A notification under subsection (2) must be in the
10 approved form.
- 11 (5) The approved form may require the provision of any
12 information the CEO thinks fit in connection with a
13 relevant change of particulars.
14

15 **32. Section 36 amended**

16 In section 36(a):

- 17 (a) after "person is" insert:
18
19 charged with or
20
21 (b) after "committed" insert:
22
23 or allegedly committed
24

25 **33. Sections 37, 37A and 38 deleted**

26 Delete sections 37, 37A and 38.

1 **34. Section 39 amended**

2 In section 39:

3 (a) after “obtained” insert:

4

5 or created

6

7 (b) after paragraph (c) insert:

8

9 (ca) if the information relates to proceedings before
10 a court or tribunal and the proceedings are or
11 were open to the public; or

12 (cb) if the disclosure or use involves the provision
13 of statistical information that could not
14 reasonably be expected to identify a specific
15 person; or
16

17 Note: The heading to amended section 39 is to read:

18 **Use and disclosure of information obtained or created in course**
19 **of official functions**

20 **35. Section 39A amended**

21 (1) In section 39A(1) delete the definition of *external government*
22 *agency*.

23 (2) Delete section 39A(2)(c).

24 (3) Delete section 39A(4)(a) and insert:

25

26 (a) section 34E(4) or 34H(3); or

27

28 **36. Section 42 deleted**

29 Delete section 42.

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1 **37. Section 43A inserted**

2 After section 43 insert:

3

4 **43A. Protection of legal professional privilege**

5 Nothing in this Act requires a person to disclose
6 information that is the subject of legal professional
7 privilege.

8

9 **38. Sections 45A to 45D inserted**

10 After section 45 insert:

11

12 **45A. Delegation by public authority or other body**

13 (1) In this section —

14 *chief executive officer*, in relation to a relevant
15 authority, means the principal officer (however
16 described) of that body;

17 *relevant authority* means —

18 (a) a public authority; or

19 (b) any other body prescribed by the regulations for
20 the purposes of this definition.

21 (2) The chief executive officer of a relevant authority may
22 delegate to an officer or employee of the relevant
23 authority any power or duty of the relevant authority
24 under this Act.

25 (3) The delegation must be in writing signed by the chief
26 executive officer.

27 (4) A delegation may expressly authorise the delegate to
28 further delegate the power or duty.

1 (5) A person exercising or performing a power or duty that
2 has been delegated to the person under this section or
3 as authorised under this section is taken to do so in
4 accordance with the terms of the delegation unless the
5 contrary is shown.

6 (6) Nothing in this section limits the ability of the relevant
7 authority to perform a function through an officer of
8 the relevant authority or an agent.

9 **45B. Commencement of proceedings**

10 (1) Proceedings under this Act for an offence or in respect
11 of any other matter may be commenced in the name of
12 the CEO by —

13 (a) the CEO; or

14 (b) a person authorised to do so by the CEO.

15 (2) In any proceedings no proof is required of —

16 (a) the appointment of the CEO; or

17 (b) the authorisation of a person under
18 subsection (1)(b).

19 (3) An averment in a prosecution notice that a person is
20 authorised under subsection (1)(b) is taken to be
21 proved unless the contrary is proved.

22 (4) Subsection (1) does not limit the ability of a person to
23 commence or conduct the prosecution of an offence if
24 the person has authority at law to do so.

25 **45C. Time for commencement of prosecution**

26 Proceedings under this Act for an offence must be
27 commenced —

28 (a) if the penalty for the offence specified by this
29 Act includes a term of imprisonment for
30 5 years — within 5 years after the day on which

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- 1 the offence is alleged to have been committed;
2 or
3 (b) if the offence is under section 9B(1) or (2) —
4 within 5 years after the day on which the
5 offence is alleged to have been committed; or
6 (c) in any other case — within 2 years after the day
7 on which the offence is alleged to have been
8 committed.

9 **45D. Service of documents**

- 10 (1) In this section —
11 *document* includes any written notice or decision;
12 *give* includes serve, send, issue and notify.
- 13 (2) A document that is authorised or required by this Act
14 to be given to a person may be given by any of the
15 following methods —
- 16 (a) delivering the document to the person
17 personally;
- 18 (b) leaving the document for the person at the
19 person's last known principal place of
20 residence or ordinary place of business;
- 21 (c) sending the document by post to the person's
22 last known principal place of residence or
23 ordinary place of business;
- 24 (d) sending the document by email to an email
25 address specified by the person for giving
26 documents under this Act;
- 27 (e) any other method to which the person agrees
28 for giving documents under this Act;
- 29 (f) any other method (including electronic means)
30 prescribed by the regulations.

- 1 (3) The regulations may make provision for or in relation
2 to the time at which a document that is given by a
3 particular method is taken to have been given.
4

5 **39. Section 46 amended**

6 In section 46(2)(a) after “obtained” insert:

7

8 or created

9

10 **40. Section 47 replaced**

11 Delete section 47 and insert:

12

13 **47. Review of Act**

14 (1) The Minister must review the operation and
15 effectiveness of this Act, and prepare a report based on
16 the review —

17 (a) as soon as practicable after the 5th anniversary
18 of the day on which the *Working with Children*
19 *(Criminal Record Checking) Amendment*
20 *Act 2022* section 40 comes into operation; and

21 (b) after that, at intervals of not more than 5 years.

22 (2) The Minister must cause the report to be laid before
23 each House of Parliament as soon as practicable after it
24 is prepared, but not later than 12 months after the
25 5th anniversary or the expiry of the period of 5 years, as
26 the case may be.
27

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1 **41. Part 6 Division 1 heading inserted**

2 At the beginning of Part 6 insert:

3

4 **Division 1 — Transitional provisions for this Act**

5

6 **42. Section 56 amended**

7 In section 56 delete “Part —” and insert:

8

9 Division —

10

11 **43. Section 61 amended**

12 In section 61(1) delete “Part” and insert:

13

14 Division

15

16 **44. Part 6 Division 2 inserted**

17 After section 61 insert:

18

19 **Division 2 — Transitional provisions for *Working with***
20 ***Children (Criminal Record Checking) Amendment***
21 ***Act 2022***

22 **Subdivision 1 — Preliminary**

23 **62. Terms used**

24 In this Division —

25 *2022 Amendment Act* means the *Working with*
26 *Children (Criminal Record Checking) Amendment*
27 *Act 2022*;

1 **commencement day** means the day on which
2 section 44 of the 2022 Amendment Act comes into
3 operation;

4 **former classification provisions** means section 7, and
5 Schedules 1 and 2, as in force immediately before
6 commencement day;

7 **new classification provisions** means section 7, and
8 Schedules 1 and 2, as in force on and after
9 commencement day;

10 **pre-commencement assessment application** means an
11 application for an assessment notice that is pending
12 immediately before commencement day;

13 **pre-commencement cancellation application** means an
14 application for the cancellation of a negative notice
15 under section 19 that is pending immediately before
16 commencement day.

17 **Subdivision 2 — Classification of offences**

18 **63. Current assessment notices**

19 Subject to this Subdivision, the former classification
20 provisions continue to apply to and in relation to a
21 person who has a current assessment notice
22 immediately before commencement day until the
23 person ceases to have a current assessment notice.

24 **64. Pre-commencement assessment applications**

- 25 (1) This section applies to a person who has a
26 pre-commencement assessment application.
- 27 (2) Subject to this Subdivision, the former classification
28 provisions continue to apply to and in relation to the

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- 1 person until the CEO makes a decision under
2 section 12 in relation to the application and then —
- 3 (a) if an assessment notice is issued — until the
4 person ceases to have a current assessment
5 notice; or
- 6 (b) if a negative notice is issued —
- 7 (i) until all rights of review and appeal
8 have been exhausted; and
- 9 (ii) if an assessment notice is issued as a
10 result of a review or appeal — until the
11 person ceases to have a current
12 assessment notice.

13 **65. Pre-commencement cancellation applications**

- 14 (1) This section applies to a person who has a
15 pre-commencement cancellation application.
- 16 (2) Subject to this Subdivision, the former classification
17 provisions continue to apply to and in relation to the
18 person until the CEO makes a decision on the
19 application and then —
- 20 (a) if an assessment notice is issued — until the
21 person ceases to have a current assessment
22 notice; or
- 23 (b) if the application is unsuccessful —
- 24 (i) until all rights of review and appeal
25 have been exhausted; and
- 26 (ii) if an assessment notice is issued as a
27 result of a review or appeal — until the
28 person ceases to have a current
29 assessment notice.

1 **66. Decision to act under s. 17(3)(d)**

- 2 (1) This section applies to a person if —
- 3 (a) the person is subject to a decision of the CEO
- 4 to act under section 17(3)(d) made before
- 5 commencement day; and
- 6 (b) the CEO has not made a decision under
- 7 section 12 in respect of the person before
- 8 commencement day.
- 9 (2) Subject to this Subdivision, the former classification
- 10 provisions continue to apply to and in relation to the
- 11 person until the CEO makes a decision under
- 12 section 12 and then —
- 13 (a) if an assessment notice is issued — until the
- 14 person ceases to have a current assessment
- 15 notice; or
- 16 (b) if a negative notice is issued —
- 17 (i) until all rights of review and appeal
- 18 have been exhausted; and
- 19 (ii) if an assessment notice is issued as a
- 20 result of a review or appeal — until the
- 21 person ceases to have a current
- 22 assessment notice.

23 **67. Decision to act under s. 20**

- 24 (1) This section applies to a person if —
- 25 (a) the person is subject to a decision of the CEO
- 26 to act under section 20 made before
- 27 commencement day; and
- 28 (b) the processes provided for, or referred to, in
- 29 section 20 (the *relevant processes*) have not
- 30 been completed in respect of the person
- 31 immediately before commencement day.

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- 1 (2) Subject to this Subdivision, the former classification
2 provisions continue to apply to and in relation to the
3 person until the relevant processes are completed and
4 then —
- 5 (a) if an assessment notice is issued — until the
6 person ceases to have a current assessment
7 notice; or
- 8 (b) if a negative notice is issued or is not
9 cancelled —
- 10 (i) until all rights of review and appeal
11 have been exhausted; and
- 12 (ii) if an assessment notice is issued as a
13 result of a review or appeal — until the
14 person ceases to have a current
15 assessment notice.

16 **68. Processes associated with s. 32**

- 17 (1) This section applies to a person if —
- 18 (a) the person is the subject of a notice given to the
19 CEO before commencement day that the CEO
20 must treat under section 32(1) as an application
21 for an assessment notice; and
- 22 (b) the CEO has not made a decision under
23 section 12 in respect of the person before
24 commencement day.
- 25 (2) Subject to this Subdivision, the former classification
26 provisions continue to apply to and in relation to the
27 person until the CEO makes a decision under
28 section 12 and then —
- 29 (a) if an assessment notice is issued — until the
30 person ceases to have a current assessment
31 notice; or

- 1 (b) if a negative notice is issued —
2 (i) until all rights of review and appeal
3 have been exhausted; and
4 (ii) if an assessment notice is issued as a
5 result of a review or appeal — until the
6 person ceases to have a current
7 assessment notice.

8 **69. Assessment notice taken to be held while application**
9 **pending**

- 10 (1) Subject to this Subdivision, a person is not taken to
11 cease to have a current assessment notice if —
12 (a) the person has a current assessment notice at
13 any time on or after commencement day
14 (including an assessment notice issued after
15 commencement day); and
16 (b) the person applies for a further assessment
17 notice under Part 2 Division 1 within the period
18 of 3 months before the assessment notice will
19 expire as provided by section 15; and
20 (c) the former classification provisions apply to
21 and in relation to the person under another
22 provision of this Subdivision at the time of the
23 application; and
24 (d) the assessment notice expires while the
25 application is pending.
- 26 (2) Subject to this Subdivision, the former classification
27 provisions continue to apply to and in relation to the
28 person until the CEO makes a decision under
29 section 12 in relation to the application and then —
30 (a) if an assessment notice is issued — until the
31 person ceases to have a current assessment
32 notice; or

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- 1 (b) if a negative notice is issued —
2 (i) until all rights of review and appeal
3 have been exhausted; and
4 (ii) if an assessment notice is issued as a
5 result of a review or appeal — until the
6 person ceases to have a current
7 assessment notice.

8 **70. Subsequent issue of negative notice or interim**
9 **negative notice**

- 10 (1) This section applies to a person to whom —
11 (a) any of sections 63 to 69 apply; or
12 (b) section 71(4) applies.
- 13 (2) Subject to this Subdivision, if the person ceases to have
14 a current assessment notice (the *first assessment*
15 *notice*) because the person is issued with a negative
16 notice on or after commencement day, the former
17 classification provisions continue to apply to and in
18 relation to the person —
19 (a) until all rights of review and appeal have been
20 exhausted; and
21 (b) if an assessment notice is issued as a result of a
22 review or appeal — until the person ceases to
23 have a current assessment notice.
- 24 (3) Subject to this Subdivision, if the person ceases to have
25 a current assessment notice (the *first assessment*
26 *notice*) because the person is issued with an interim
27 negative notice on or after commencement day, the
28 former classification provisions continue to apply to
29 and in relation to the person —
30 (a) if an assessment notice is issued — until the
31 person ceases to have a current assessment
32 notice; and

- 1 (b) if a negative notice is issued —
2 (i) until all rights of review and appeal
3 have been exhausted; and
4 (ii) if an assessment notice is issued as a
5 result of a review or appeal — until the
6 person ceases to have a current
7 assessment notice.
- 8 (4) Subsections (2) and (3) apply in the same way in
9 relation to a subsequent current assessment notice held
10 by the person if that current assessment notice can be
11 traced back to the first assessment notice.

12 **71. Proceedings before State Administrative Tribunal**
13 **or court**

- 14 (1) Subject to this Subdivision, the former classification
15 provisions continue to apply (to the extent relevant) to
16 and in relation to a person who is the subject of
17 proceedings before the State Administrative Tribunal
18 or a court under or in respect of this Act that were
19 commenced —
20 (a) before commencement day; or
21 (b) on or after commencement day if the
22 proceedings relate to —
23 (i) any proceedings commenced before
24 commencement day; or
25 (ii) any matter where the right to commence
26 those proceedings arose before
27 commencement day and the period for
28 commencing those proceedings had not
29 expired before commencement day; or
30 (iii) any matter where the right to commence
31 those proceedings expired before
32 commencement day but the State
33 Administrative Tribunal or a court

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- 1 grants an extension of time to
2 commence those proceedings; or
3 (iv) any matter to which subsection (4) or
4 any of sections 63 to 70 apply.
- 5 (2) Subsection (1)(b)(i) and (ii) extend to a case where the
6 period for commencing proceedings expires and the
7 State Administrative Tribunal or a court grants an
8 extension of time to commence the proceedings.
- 9 (3) The former classification provisions apply under
10 subsection (1) pending the outcome of the proceedings
11 (and subject to subsection (4) and the other provisions
12 of this Subdivision).
- 13 (4) Subject to this Subdivision —
- 14 (a) if, as a result of proceedings referred to in
15 subsection (1), an assessment notice is issued to
16 the person who was the subject of the
17 proceedings, the former classification
18 provisions continue to apply to and in relation
19 to the person until the person ceases to have a
20 current assessment notice; and
- 21 (b) if, as a result of proceedings referred to in
22 subsection (1), a negative notice still applies in
23 relation to the person who was the subject of
24 the proceedings, the former classification
25 provisions continue to apply to and in relation
26 to the person —
- 27 (i) until all rights of review and appeal
28 have been exhausted; and
- 29 (ii) if an assessment notice is issued as a
30 result of a review or appeal — until the
31 person ceases to have a current
32 assessment notice.

-
- 1 **72. Rights of review and appeal: related provision**
- 2 (1) This section applies if a provision of this Subdivision
3 provides that the former classification provisions
4 continue to apply to and in relation to a person until all
5 rights of review and appeal have been exhausted.
- 6 (2) Subject to this Subdivision, if the State Administrative
7 Tribunal or a court grants an extension of time to
8 commence review or appeal proceedings, the former
9 classification provisions continue to apply to and in
10 relation to the person pending the outcome of those
11 proceedings.
- 12 **73. Rights of review and appeal no longer apply if**
13 **application made under s. 19 or 20**
- 14 If a person to whom a negative notice has been issued
15 applies to the CEO on or after commencement day for
16 the notice to be cancelled under section 19 or 20 —
- 17 (a) all rights of review and appeal in relation to the
18 negative notice are taken to have been
19 exhausted for the purposes of this Subdivision;
20 and
- 21 (b) the former classification provisions cease to
22 apply to and in relation to the person.
- 23 **74. Application of new classification provisions**
- 24 (1) Despite any other section in this Subdivision, the new
25 classification provisions apply to and in relation to a
26 person if the person is charged with, or convicted of, an
27 offence on or after commencement day that is
28 classified as a Class 1 offence or a Class 2 offence
29 under those provisions.
- 30 (2) If the new classification provisions apply to a person
31 by operation of subsection (1), a classification of an
32 offence by virtue of those provisions applies to and in

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1 relation to the person even if the offence was not a
2 Class 1 offence or a Class 2 offence (as the case may
3 be) at the time when the offence was committed or
4 allegedly committed.

5 **Subdivision 3 — Other provisions**

6 **75. Application of amended s. 12**

7 Section 12, as in force on and after commencement
8 day, applies to and in relation to a person who is
9 subject to Subdivision 2.

10 **76. Processes associated with interim negative notice**

- 11 (1) Section 13, as in force immediately before
12 commencement day, continues to apply in relation to
13 an interim negative notice issued before
14 commencement day.
- 15 (2) Unless subsection (1) applies, section 13AA applies to
16 and in relation to the following —
- 17 (a) a pre-commencement assessment application;
- 18 (b) a decision of the CEO to act under
19 section 17(3)(d) if the CEO has not made a
20 decision under section 12 before
21 commencement day;
- 22 (c) a decision by the CEO to act under section 20
23 before commencement day if the correct notice
24 to be substituted would be a negative notice and
25 the CEO has not made a decision under that
26 section before commencement day;
- 27 (d) a notice that the CEO must treat under
28 section 32(1) as an application for an
29 assessment notice if the CEO has not made a
30 decision under section 12 before
31 commencement day.

1 **77. Application of Part 3B**

2 The powers conferred by Part 3B may be exercised in
3 relation to a suspected offence under this Act, or other
4 conduct, whether occurring before, on or after
5 commencement day.

6 **78. Disclosure of information by CEO**

7 (1) This section applies if the CEO has given a notice to a
8 person under section 38(2) or (3) before
9 commencement day.

10 (2) Despite the repeal of section 38 by the 2022
11 Amendment Act, the CEO must comply with
12 subsection (4) of that section if circumstances referred
13 to in that subsection occur on or after commencement
14 day.

15 **79. Transitional regulations**

16 (1) In this section —
17 *specified* means specified or described in the
18 regulations;

19 *transitional matter* —

20 (a) means a matter or issue of a transitional nature
21 that arises as a result of any of the amendments
22 to this Act made by the 2022 Amendment Act;
23 and

24 (b) includes a saving or application matter.

25 (2) If there is not sufficient provision in this Division for
26 dealing with a transitional matter, the regulations may
27 prescribe all matters that are required, necessary or
28 convenient to be prescribed for dealing with the matter.

29 (3) If regulations made under subsection (2) provide that a
30 specified state of affairs is taken to have existed, or not
31 to have existed, on and from a day that is earlier than

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- 1 the day on which the regulations are published in the
2 *Gazette* but not earlier than commencement day, the
3 regulations have effect according to their terms.
- 4 (4) If regulations made under subsection (2) contain a
5 provision of a kind described in subsection (3), the
6 provision does not operate so as —
- 7 (a) to affect in a manner prejudicial to any person
8 (other than the State or an authority of the
9 State) the rights of that person existing before
10 the day of publication of those regulations; or
- 11 (b) to impose liabilities on any person (other than
12 the State or an authority of the State) in respect
13 of anything done or omitted to be done before
14 the day of publication of those regulations.
15

16 **45. Schedules 1 and 2 replaced**

17 Delete Schedules 1 and 2 and insert:
18

19 **Schedule 1 — Class 1 offences**

20 [s. 7(1)]

| Enactment | Description of offence | Conditions |
|--------------------------|--|-----------------------|
| <i>The Criminal Code</i> | | |
| s. 181 | Carnal knowledge of animal | |
| s. 186(1) | Occupier or owner allowing child to be on premises for unlawful carnal knowledge | |
| s. 187(2) | Facilitating sexual offence against child outside Western Australia | |
| s. 191 | Procuring person to be prostitute | The victim is a child |

| Enactment | Description of offence | Conditions |
|------------------|---|---|
| s. 192 | Procuring person to have unlawful carnal knowledge by threat, fraud or administering drug | The victim is a child |
| s. 204A(2) | Showing offensive material to child under 16 | The offensive material is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence does not fall within the ambit of section 7(3) |
| s. 204B | Using electronic communication to procure, or expose to indecent matter, child under 16 | The offence does not fall within the ambit of section 7(3) |
| s. 217 | Involving child in child exploitation | The offence does not fall within the ambit of section 7(3) |
| s. 218 | Producing child exploitation material | The offence does not fall within the ambit of section 7(3) |
| s. 219 | Distributing child exploitation material | The offence does not fall within the ambit of section 7(3) |
| s. 220 | Possession of child exploitation material | The offence does not fall within the ambit of section 7(3) |
| s. 279 | Murder | The victim is a child |
| s. 294 | Act intended to cause grievous bodily harm or prevent arrest | The victim is a child |
| s. 305 | Setting dangerous thing | The intended victim is a child |
| s. 306(2) | Female genital mutilation | The victim is a child |

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| Enactment | Description of offence | Conditions |
|------------------|--|---|
| s. 306(4) | Female genital mutilation – taking or arranging for child to be taken from the State | |
| s. 317A(b) | Assault with intent to do grievous bodily harm | The victim is a child |
| s. 320 | Sexual offences against child under 13 | |
| s. 321 | Sexual offences against child of or over 13 and under 16 | The offence does not fall within the ambit of section 7(3) |
| s. 321A(4) | Persistent sexual conduct with child under 16 | The offence does not fall within the ambit of section 7(3) |
| s. 322 | Sexual offences against child of or over 16 by person in authority etc. | |
| s. 323 | Indecent assault | The victim is a child The offence does not fall within the ambit of section 7(3) |
| s. 324 | Aggravated indecent assault | The victim is a child The offence does not fall within the ambit of section 7(3) |
| s. 325 | Sexual penetration without consent | The victim is a child The offence does not fall within the ambit of section 7(3) |
| s. 326 | Aggravated sexual penetration without consent | The victim is a child The offence does not fall within the ambit of section 7(3) |

| Enactment | Description of offence | Conditions |
|------------------|--|---|
| s. 327 | Sexual coercion | The victim is a child |
| s. 328 | Aggravated sexual coercion | The victim is a child |
| s. 329(2) | Sexually penetrating child known to be lineal relative or de facto child | |
| s. 329(3) | Procuring, inciting or encouraging child known to be lineal relative or de facto child to engage in sexual behaviour | |
| s. 329(4) | Indecently dealing with child known to be lineal relative or de facto child | |
| s. 329(5) | Procuring, inciting or encouraging child known to be lineal relative or de facto child to do indecent act | |
| s. 329(6) | Indecently recording child known to be lineal relative or de facto child | |
| s. 330 | Sexual offences against incapable person | |
| s. 331B | Sexual servitude | The victim is a child or an incapable person |
| s. 331C(2) | Conducting business involving sexual servitude | The victim is a child or an incapable person |
| s. 331D | Deceptive recruiting for commercial sexual services | The victim is a child or an incapable person |
| s. 332 | Kidnapping | The victim is a child and the offence is committed by a person other than a relative of the child |

Working with Children (Criminal Record Checking) Amendment Bill 2022

Part 2 Working with Children (Criminal Record Checking) Act 2004
amended

s. 45

| Enactment | Description of offence | Conditions |
|---|--|--|
| s. 343 | Child stealing | The offence is committed by a person other than a relative of the child |
| repealed s. 278 (as read with repealed s. 282) | Wilful murder | The victim is a child |
| repealed s. 281A (as read with repealed s. 287A) | Infanticide | |
| <i>Children and Community Services Act 2004</i> | | |
| s. 192 | Employing child, or permitting child to be employed, to perform in indecent, obscene or pornographic manner | |
| <i>Classification (Publications, Films and Computer Games) Enforcement Act 1996</i> | | |
| s. 59(1) | Possessing or copying indecent or obscene article with intent to sell or supply, or selling or supplying, or offering to sell or supply, indecent or obscene article | The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A |
| s. 59(3) or (4) | Displaying, exhibiting or demonstrating indecent or obscene article in specified circumstances | The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A |

| Enactment | Description of offence | Conditions |
|------------------------------|--|--|
| s. 59(5) | Possessing or copying indecent or obscene article | The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence does not fall within the ambit of section 7(3) |
| s. 101(1) | Using computer service to transmit, obtain, demonstrate, advertise or request objectionable material | The material is child exploitation material as defined in <i>The Criminal Code</i> section 217A |
| repealed s. 60 | Child pornography | The offence does not fall within the ambit of section 7(3) |
| <i>Prostitution Act 2000</i> | | |
| s. 16 | Causing, permitting or seeking to induce child to act as prostitute | |
| s. 17(1) | Obtaining payment for prostitution by child | |
| s. 18(1) | Agreement for prostitution of child | |

1

Schedule 2 — Class 2 offences

2

[s. 7(2)]

| Enactment | Description of offence | Conditions |
|--------------------------|---|---|
| <i>The Criminal Code</i> | | |
| s. 192 | Procuring person to have unlawful carnal knowledge by threat, fraud or administering drug | The victim is a person other than a child |

Working with Children (Criminal Record Checking) Amendment Bill 2022

Part 2

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| Enactment | Description of offence | Conditions |
|------------------|---|---|
| s. 204A(2) | Showing offensive material to child under 16 | The offensive material is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence falls within the ambit of section 7(3) |
| s. 204B | Using electronic communication to procure, or expose to indecent matter, child under 16 | The offence falls within the ambit of section 7(3) |
| s. 217 | Involving child in child exploitation | The offence falls within the ambit of section 7(3) |
| s. 218 | Producing child exploitation material | The offence falls within the ambit of section 7(3) |
| s. 219 | Distributing child exploitation material | The offence falls within the ambit of section 7(3) |
| s. 220 | Possession of child exploitation material | The offence falls within the ambit of section 7(3) |
| s. 221BD(2) | Distribution of intimate image | The image is of a child |
| s. 279 | Murder | The victim is a person other than a child |
| s. 280 | Manslaughter | |
| s. 281 | Unlawful assault causing death | |
| s. 284(3)(c) | Culpable driving (not of motor vehicle) causing death | |
| s. 284(3)(d) | Culpable driving (not of motor vehicle) causing grievous bodily harm | |

| Enactment | Description of offence | Conditions |
|------------------|--|--|
| s. 288 | Procuring, counselling or aiding another to commit suicide | |
| s. 290 | Preventing birth of live child | |
| s. 292 | Disabling in order to commit indictable offence | |
| s. 293 | Stupefying in order to commit indictable offence | |
| s. 294 | Act intended to cause grievous bodily harm or prevent arrest | The victim is a person other than a child |
| s. 297 | Grievous bodily harm | |
| s. 298 | Suffocation and strangulation | |
| s. 300 | Persistent family violence | One or more of the prescribed offences under <i>The Criminal Code</i> section 299 are offences listed in Schedule 1 or this Schedule |
| s. 301 | Wounding and similar acts | |
| s. 305 | Setting dangerous thing | The intended victim is a person other than a child |
| s. 306(2) | Female genital mutilation | The victim is a person other than a child |
| s. 317A(b) | Assault with intent to do grievous bodily harm | The victim is a person other than a child |
| s. 321 | Sexual offences against child of or over 13 and under 16 | The offence falls within the ambit of section 7(3) |
| s. 321A(4) | Persistent sexual conduct with child under 16 | The offence falls within the ambit of section 7(3) |

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| Enactment | Description of offence | Conditions |
|------------------|---|---|
| s. 323 | Indecent assault | The victim is a person other than a child or The offence falls within the ambit of section 7(3) |
| s. 324 | Aggravated indecent assault | The victim is a person other than a child or The offence falls within the ambit of section 7(3) |
| s. 325 | Sexual penetration without consent | The victim is a person other than a child or The offence falls within the ambit of section 7(3) |
| s. 326 | Aggravated sexual penetration without consent | The victim is a person other than a child or The offence falls within the ambit of section 7(3) |
| s. 327 | Sexual coercion | The victim is a person other than a child |
| s. 328 | Aggravated sexual coercion | The victim is a person other than a child |
| s. 329(7) | Sexually penetrating person of or over 18 known to be lineal relative | |
| s. 329(8) | Consenting to being sexually penetrated by person known to be lineal relative | |

| Enactment | Description of offence | Conditions |
|--|---|--|
| s. 331B | Sexual servitude | The victim is a person other than a child or an incapable person |
| s. 331C(2) | Conducting business involving sexual servitude | The victim is a person other than a child or an incapable person |
| s. 331D | Deceptive recruiting for commercial sexual services | The victim is a person other than a child or an incapable person |
| s. 332 | Kidnapping | The victim is a person other than a child or The victim is a child and the offence is committed by a relative of the child |
| s. 343 | Child stealing | The offence is committed by a relative of the child |
| repealed s. 278 (as read with repealed s. 282) | Wilful murder | The victim is a person other than a child |
| <i>Animal Welfare Act 2002</i> | | |
| s. 19 | Cruelty to animals | This item does not apply if the CEO is satisfied that the offence did not involve serious cruelty to an animal |
| <i>Children and Community Services Act 2004</i> | | |
| s. 101(1) | Failing to protect child from significant harm | |

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| Enactment | Description of offence | Conditions |
|---|---|--|
| s. 102 | Leaving child unsupervised in vehicle | |
| <i>Classification (Publications, Films and Computer Games) Enforcement Act 1996</i> | | |
| s. 59(5) | Possessing or copying indecent or obscene article | The article is child exploitation material as defined in <i>The Criminal Code</i> section 217A The offence falls within the ambit of section 7(3) |
| repealed s. 60 | Child pornography | The offence falls within the ambit of section 7(3) |
| <i>Disability Services Act 1993</i> | | |
| s. 53 | Offence of ill-treatment | |
| <i>Misuse of Drugs Act 1981</i> | | |
| s. 7B(4) | Selling drug paraphernalia to child | |
| repealed s. 19A(2) | Selling, or offering to sell, cannabis smoking paraphernalia to child | |
| repealed s. 19B(2) | Selling, or offering to sell, ice pipe to child | |
| <i>Road Traffic Act 1974</i> | | |
| s. 59 | Dangerous driving causing death | |
| s. 59 | Dangerous driving causing grievous bodily harm | |

1

46. Various penalties amended

In the provisions listed in the Table delete “Penalty:” and insert:

Penalty for this subsection:

Table

| | |
|---------------------------------|---------------------------------|
| s. 9B(1), (2), (3), (4) and (5) | s. 16(5) |
| s. 17(4) | s. 22(2), (3), (4), (5) and (6) |
| s. 28(2) | s. 29(1) |
| s. 31(2), (3) and (4) | |

Notes:

1. The heading to amended section 31 is to read:
Duties and employment of people with assessment notice who have relevant change in criminal record
2. The heading to section 20 is to read:
Cancellation of assessment notice or negative notice as result of wrong or incomplete information
3. The heading to section 21B is to read:
Cancellation of assessment notice on person’s request

1 **Part 3 — Consequential amendments to other Acts**

2 **Division 1 — *National Disability Insurance Scheme (Worker***
3 ***Screening) Act 2020* amended**

4 **47. Act amended**

5 This Division amends the *National Disability Insurance Scheme*
6 *(Worker Screening) Act 2020*.

7 **48. Section 34 amended**

8 In section 34(5)(b) delete “*(Criminal Record Checking)*” and
9 insert:

10

11 *(Screening)*

12

13 **49. Section 51 amended**

14 In section 51(8)(d) delete “*(Criminal Record Checking)*” and
15 insert:

16

17 *(Screening)*

18

19 **50. Section 72 amended**

20 Delete section 72(4) and insert:

21

22 (4) Subsection (3) does not derogate from the operation
23 of —

24

(a) section 34(6); or

25

(b) the *Working with Children (Screening)*
26 *Act 2004* section 34E(4).

27

1 **Division 2 — *Spent Convictions Act 1988* amended**

2 **51. Act amended**

3 This Division amends the *Spent Convictions Act 1988*.

4 **52. Schedule 3 amended**

5 (1) In Schedule 3 clause 2(6) in the Table:

6 (a) after item 2 insert:

7

 2A. A person making, or giving effect to, a request for a report,
documents or information under the *Working with
Children (Screening) Act 2004* section 9, 10, 13, 33A,
34A, 34C, 34E or 34I.

8

9 (b) in item 3 after “section” insert:

10

11 33A, 34I or

12

13 (2) In Schedule 3 clause 2(7) delete “section 37(2) of that Act if the
14 disclosure is to a corresponding authority as defined in section 37(1)
15 of that Act and that authority is” and insert:

16

17 section 34D of that Act if the person or body to whom or to which the
18 information is disclosed is

19

20 (3) In Schedule 3 clause 2(8)(b) delete “section 37(1) and that
21 agency” and insert:

22

23 section 4 and that corresponding authority

24

1 (4) In Schedule 3 clause 3(3) delete “section 37A” and insert:

2

3 section 34E

4

5 (5) In the provisions listed in the Table delete “(*Criminal Record*

6 *Checking*)” and insert:

7

8 (*Screening*)

9

10

Table

| | |
|---|-----------------|
| Sch. 3 cl. 2(6) Table it. 1, 2 and 3 | Sch. 3 cl. 2(7) |
| Sch. 3 cl. 2(8)(a) and (b) | Sch. 3 cl. 3(3) |

11

Division 3 — Other Acts amended

12

53. Various references to short title of Act amended

13

(1) This section amends the Acts listed in the Table.

14

(2) In the provisions listed in the Table delete “(*Criminal Record*

15 *Checking*)” and insert:

16

17 (*Screening*)

18

19

Table

| | |
|--------------------------|--|
| <i>Adoption Act 1994</i> | s. 4(1) def. of <i>Class 1 offence</i> s. 4(1) def. of <i>Class 2 offence</i> s. 4(1) def. of <i>conviction</i> s. 4(1) def. of <i>pending charge</i> |
|--------------------------|--|

Working with Children (Criminal Record Checking) Amendment Bill 2022

Consequential amendments to other Acts

Part 3

Other Acts amended

Division 3

s. 53

| | |
|---|------------------------------------|
| <i>Child Care Services Act 2007</i> | s. 29(2)(d) s. 41A(c) |
| <i>Education and Care Services National Law (WA) Act 2012</i> | s. 14 |
| <i>Teacher Registration Act 2012</i> | s. 27(2)(b) and (3)(b) s. 40(1) |

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